

SECTION 1. SUMMARY OF DRAFT EIR PUBLIC REVIEW PROCESS

The 45-day public review period for the Draft EIR commenced on February 3, 2006 and concluded on March 20, 2006. On February 3, 2006, the City undertook the following actions to inform the public of the availability of the Draft EIR:

- A large “Notice of Availability of Draft EIR”, including a map of the EEHVS project area, was published in the San José Mercury News.
- E-mail notification of the availability of the Draft EIR was sent to approximately 337 recipients, including all members of the EEHVS Task Force and other members of the public who had indicated an interest in the EEHVS.
- The Draft EIR was delivered to the State Clearinghouse, as well as sent to various governmental agencies. See Section 2 for the list of agencies that received the Draft EIR.

Beginning on February 3rd, the Draft EIR was posted on the City of San José Planning Department’s website. Copies of the Draft EIR were also made available at the following locations: San José City Hall, San José Main Library, Hillview Branch Library, Alum Rock Branch Library, Seventrees Branch Library, and Tully Branch Library.

On March 14, 2006, a public meeting on the Draft EIR was held at 7 p.m. in the San José City Council Chambers. Approximately 30 members of the public attended the meeting. The meeting included a presentation by City staff and the EIR preparers on 1) an overview of the EEHVS, 2) an overview of the CEQA process, and 3) the main findings contained in the Draft EIR. Following the presentation, members of the public had the opportunity to ask questions. Such questions, which were submitted on comment cards, were read aloud by the Moderator. While City staff and the EIR preparers were able to provide answers to some questions at the meeting, full responses to all of the questions submitted at the meeting are provided in Section 4 of this document.

SECTION 2. LIST OF AGENCIES, ORGANIZATIONS AND INDIVIDUALS WHO RECEIVED THE DRAFT EIR

Copies of the Draft EIR were sent to the following agencies, organizations, and individuals:

Federal Agencies

- Federal Aviation Administration
- Federal Highway Administration
- Housing & Urban Development
- U.S. Fish & Wildlife Service

State of California Agencies (via State Clearinghouse)

- Caltrans, District 4
- Caltrans, Division of Aeronautics
- Air Resources Board
- Department of Fish & Game
- Highway Patrol
- Department of Conservation
- Regional Water Quality Control Board
- Department of Water Resources
- Department of Toxic Substances Control
- Department of Health Services
- Native American Heritage Commission
- Department of Housing
- Integrated Waste Management Board
- Department of Parks & Recreation, Office of Historic Preservation

County and Regional Agencies

- Santa Clara Valley Transportation Authority
- Santa Clara Co. Planning Dept.
- Santa Clara Valley Water District
- Santa Clara Co. Roads & Airports Dept.
- Association of Bay Area Governments
- Santa Clara Co. ALUC
- Metropolitan Transportation Commission
- Santa Clara Co. LAFCO
- Santa Clara County Open Space Authority
- Guadalupe-Coyote Resource Conserv.
- Bay Area Air Quality Management District
- County Historical Heritage Commission

Local Governments

- City of Campbell
- City of Cupertino
- City of Fremont
- City of Gilroy
- Town of Los Gatos
- City of Milpitas
- City of Morgan Hill
- City of Santa Clara
- City of Saratoga
- City of Sunnyvale

School Districts

- Evergreen Elementary
- Mt. Pleasant Elementary
- San José Evergreen Community College
- East Side Union High School District

Organizations

- Sierra Club, Loma Prieta Chapter
- Audubon Society, Santa Clara Valley
- San José Preservation Action Council
- Coalition for Responsible Airport Mgmt. & Policy
- Greenbelt Alliance
- California Native Plant Society
- California Pilots Association

Individuals and Companies

- EEHVS Task Force Members
- San José Water Company
- Adams, Broadwell, Joseph & Cardozo
- SBC
- PG&E

SECTION 3. LIST OF COMMENTS RECEIVED ON THE DRAFT EIR

Sixty-four (64) written comments on the Draft EIR were received during the public review period, of which 19 were submitted at the March 14, 2006 public meeting on the Draft EIR. A copy of each comment is contained in Appendix A. The list of comments received, including the page on which the response(s) to the comment begins, is shown below.

The reader will note that some responses to comments are simply "comment noted". This response is made where the comment pertains to issues other than the adequacy of the EIR. For example, if a comment expresses an opinion about the merits of the project itself, the response is to note and acknowledge that comment for the record. CEQA requires in-depth responses only where environmental issues pertaining to the adequacy of the EIR are raised in a comment.

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SECTION 4. RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR

This section contains responses to all comments on the Draft EIR that were received by the City. With the exception of the issue of “School Impacts and Mitigation”, all issues raised by each comment are responded to individually. With respect to schools, there were many comments that questioned the EIR methodology for assessing school impacts and mitigation. Because the comments and questions were very similar, a master response regarding this subject is provided below.

MASTER RESPONSE: SCHOOL IMPACTS AND MITIGATION

In November 1998, California voters passed Proposition 1A, a \$9.2 billion statewide school bond measure. Proposition 1A was linked to legislation enacted in 1998 that significantly limited the application of CEQA with regard to the treatment of school impacts and mitigation. Specifically, the legislation, California Government Code Sections 65995-65998, sets forth provisions for the payment of school impact fees by new development as the exclusive means of “considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property.” [§65996(a)]. The legislation goes on to say that the payment of school impact fees “are hereby deemed to provide full and complete school facilities mitigation” under CEQA. [§65996(b)].

Section 5.3, *Schools*, on pages 301 - 308 of the EEHVS Draft EIR complies with both the spirit of CEQA and the 1998 legislation because it 1) informs the reader of existing conditions in the project-area schools and the impacts of the EEHVS upon those schools, and 2) it correctly identifies the payment of school impact fees as appropriate mitigation under state law. Based on information provided to the City by the three Evergreen-area school districts, the Draft EIR states the following:

- Under Scenarios II-VI, development of the Arcadia property would necessitate the construction of a new elementary school (K-6).
- A new middle school would not be required under any of the development scenarios for the Arcadia property.
- Under Scenarios II-V, development of the Berg/IDS and Legacy Partners properties would necessitate the construction of a new elementary school (K-8).
- Under Scenarios II-VI, development of the Evergreen Valley College property would add students to nearby Laurelwood and/or Evergreen Elementary Schools. Additional classrooms would be necessary but not to the degree to where a new school would be needed.
- Under Scenarios II-VI, development of the Pleasant Hills Golf Course property would necessitate the construction of a new school.
- Approval of any of the EEHVS development scenarios would not require the construction of a new high school. Approval of the EEHVS would, however, require the East Side Union High School District to adjust the current school attendance boundaries.

The Draft EIR also discloses that the project applicants are proposing to reserve two 5-acre sites, one on the Pleasant Hills Golf Course property and one on the Berg/IDS property, for new schools should the school districts desire to construct new schools. These sites are proposed in recognition of the fact that the EEHVS will generate additional students and that the school districts might decide to construct new school(s). The reservation of these sites is not, however, mitigation under CEQA.

A number of comments expressed concern that 5-acre sites are insufficient for a new school. For example, the comment from the attorney representing the Mt. Pleasant School District (Comment #12) stated that, according to the California Department of Education, the minimum size for a new K-8 school with 20 classrooms would be 13.2 acres. Similarly, the Evergreen School District estimates that a new K-8 school would require 25 acres, as referenced on page 304 of the Draft EIR.

The City is not in a position to validate or dispute these estimates, and in any case, this is not a CEQA issue. It should be noted, however, that there appears to be a wide range of sizes for school sites, depending upon the number of classrooms, size of playgrounds, extent of outdoor athletic facilities, etc.

Apart from the CEQA process, the City notes that school siting and capacity is one of the key issues being considered by the EEHVS Task Force. The owners of the EEHVS opportunity sites and officials from the affected school districts have also participated in ongoing discussions regarding this issue.

RESPONSES TO COMMENT #1: CALIFORNIA HIGHWAY PATROL

Comment 1-A

Thank you for the opportunity to review the "Notice of Completion environmental document from the State Clearinghouse regarding the proposed Evergreen • East Hills Vision Strategy Project in San José SCH#2005102007. The California Highway Patrol (CHP) is not the primary agency for traffic law enforcement, safety, and traffic management in the immediate area surrounding the proposed development within the city limits of San José. The San José Area is responsible for traffic enforcement on the adjoining major freeways surrounding the area in question and will be affected by the implementation of this project.

Our major concern relates to the traffic flow patterns that will flow into and out of the proposed area that is to be developed. The proposed site is located in the eastern foothills of San José. The added traffic congestion from the approximately 5,700 housing units that are scheduled to be built in the area will have a major impact on congestion on those freeways adjacent to the development and tax the resources available to the San José Area. We would

request if this project is allowed to proceed that additional personnel be assigned, to the San José Area.

Response 1-A

The need for additional personnel in the CHP's San José Area would be a fiscal impact, not an environmental impact under CEQA. There is no evidence that indicates that the project would result in the need for new or physically-altered CHP facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police/CHP protection.

**RESPONSES TO COMMENT #2:
CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

Comment 2-A

Thank you for the opportunity to comment on the Evergreen-East Hills Vision Strategy (SCH # 2005102007) draft Environmental Impact Report (EIR). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any remediation of hazardous substance releases that may be necessary.

In the Hazards/Hazardous Materials section, you identified several potential contaminated sites and discussed remedial action that would be addressed during the implementation of the draft EIR. DTSC recommends that the following impacts associated with the soil excavation be discussed in the EIR: (1) an assessment of potential air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities, and (4) risk of upset should there be an accident at the Site during implementation of cleanup activities.

Response 2-A

Based on the facts described in Section 4.9, the extent of existing contamination is relatively minor. There is no evidence to indicate that contamination is of an unusual or complex nature. Contamination (e.g., residual heavy metals and pesticides in soils) will be remediated in accordance with applicable regulations in effect at the time of construction activities using standard measures that are in common and widespread use. Such measures, which are approved and regulated by DTSC, are known to be both safe and effective. Traffic associated

with remediation will be temporary in nature and will primarily be limited to a low volume of truck trips spread throughout the day (i.e., not concentrated in the peak commute hours). Based on these facts, any environmental effects associated with remediation activities are anticipated to be minimal

Comment 2-B

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Response 2-B

All of the remediation described in Section 4.9.4 will comply with relevant federal, state, and local regulations, including those promulgated by DTSC. If any remediation requires DTSC input and/or oversight, DTSC staff will be included in relevant meetings.

**RESPONSES TO COMMENT #3:
REGIONAL WATER QUALITY CONTROL BOARD**

Comment 3-A

The discussions of wetlands and waterways in Section 4.6 should be expanded to clarify that the Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs).

Response 3-A

Table 41 of the Draft EIR has been modified to include the RWQCB's role under the Porter-Cologne Act. See Section 5, *Draft EIR Text Revisions*.

Comment 3-B	Section 4.6.2.1, Existing Biological Resources on Arcadia Property, Wetlands and Waterways, page 200: Text in this paragraph refers to a potential 0.1-acre, isolated wetland on the Arcadia Property. According to the text, the potential wetland is not subject to ACOE regulation under Section 404 of the CWA. However the text does not explain if this is because the area does not meet the three-parameter definition of wetlands or if this is because the wetland is an "isolated" wetland that is not subject to ACOE jurisdiction subsequent to the SWANCC decision. This paragraph should be revised to clarify that isolated wetlands continue to be regulated by the Water Board under the Porter-Cologne Act. Due to the relatively small size of this isolated wetland, activities in this wetland may qualify for coverage under the State Water Resources Control Board's General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction (GWDRs). Any fill of such a wetland will require mitigation to compensate for the fill.
Response 3-B	The text has been revised to clarify that the wetland is not subject to ACOE jurisdiction because it is isolated, but that regulation by the RWQCB may still be required. See Section 5, <i>Draft EIR Text Revisions</i> . The City notes that, while the RWQCB could require mitigation for the filling of this area (assuming it is subject to regulation by the RWQCB), the impact under CEQA would not be significant due to the small size and highly degraded nature of this habitat.
Comment 3-C	Section 4.6.2.2, Existing Biological Resources on Pleasant Hills Golf Course Property, Wetlands and Waterways, page 205: Text in this paragraph refers to small wetlands and a seasonal swale on the property. These features appear to be jurisdictional features under the Porter-Cologne Act. Any activities impacting these features will be required to obtain WDRs from the Water Board. These WDRs will specify mitigation for impacts to these waters of the State.
Response 3-C	The text has been revised to clarify that these areas are not subject to ACOE jurisdiction because they qualify for exemptions under the Clean Water Act and are isolated, but that regulation by the RWQCB may still be required. See Section 5, <i>Draft EIR Text Revisions</i> . The City notes that, while the RWQCB could require mitigation for the filling of these areas (assuming they are subject to regulation by the RWQCB), the impact under CEQA would not be significant due to the small size and degraded nature of this habitat on a golf course.
Comment 3-D	Section 4.6.2.3, Existing Biological Resources on Berg/IDS Property, Wetlands and Waterways, page 206: Text in this paragraph states that Fowler Creek, "consists solely of a ditch that is completely dry with only minimal evidence of seasonal flows." This feature is still a water of the State, and is also likely to be

an ACOE jurisdictional feature, since it is a continuation of a feature with a defined bed and bank. Any activities that impact Fowler Creek are likely to require permits from the Water Board and the ACOE.

Response 3-D The text has been revised to indicate that work within Fowler Creek might be subject to regulation. See Section 5, *Draft EIR Text Revisions*.

Comment 3-E Section 4.6.2.4, Existing Biological Resources on Legacy Partners Property, Wetlands and Waterways, pages 207 - 208: Text in this paragraph refers to seasonal wetlands, with a combined surface area on the order of 0.01 acre. According to the text, the seasonal wetlands are not subject to ACOE regulation under Section 404 of the CWA. However the text does not explain if this is because the features do not meet the three-parameter definition of wetlands or if this is because the wetlands are “isolated” wetlands that are not subject to ACOE jurisdiction subsequent to the SWANCC decision. This paragraph should be revised to clarify that isolated wetlands continue to be regulated by the Water Board under the Porter-Cologne Act. Due to the relatively small size of these seasonal wetlands, activities in these wetlands may qualify for coverage under the GWDRs described above under comment 2. Any fill of such wetlands will require mitigation to compensate for the fill.

Response 3-E The text has been revised to clarify that these areas are not subject to ACOE jurisdiction because they are isolated, but that regulation by the RWQCB may still be required. See Section 5, *Draft EIR Text Revisions*. The City notes that, while the RWQCB could require mitigation for the filling of these areas (assuming they are subject to regulation by the RWQCB), the impact under CEQA would not be significant due to their small size, location within degraded grassland, and isolation from other similar habitat.

Comment 3-F In Sections 4.6.3.1, 4.6.3.2, 4.6.3.3, 4.6.3.4, and 4.6.3.5, impacts to wetlands and creeks are described as "Less than Significant Impacts". Since the DEIR fails to note that these features are subject to the jurisdiction of the Water Board, these impacts should be revised to "Less than Significant Impact with Mitigation."

Response 3-F The fact that certain areas may be subject to regulation by the RWQCB and/or ACOE does not necessarily imply that impacts to those areas are significant under CEQA. For example, both agencies regulate work within concrete channels that are devoid of any vegetation, but such work would have no impacts on natural habitats. CEQA requires a Lead Agency to determine impacts based upon site-specific facts including 1) the nature, extent, condition,

and context of a resource under existing conditions; and 2) the nature of the impact(s) upon that resource.

In this case, as described in the above-referenced sections of the Draft EIR, the biologists have determined that the affected wetlands and creeks do not constitute important habitat. In fact, the habitat is absent in some cases (e.g., Fowler Creek) or is degraded and isolated. There is no evidence that would indicate that any of this impacted habitat is an important biological resource.

Comment 3-G In Sections 4.6.4.1, 4.6.4.2, 4.6.4.3, 4.6.4.4, and 4.6.4.5, mitigation measures should be provided for impacts to wetlands and creeks.

Response 3-G For the reasons described in Response 3-F, the City, as Lead Agency, has determined that the impacts of the EEHVS to wetlands and creeks would not be significant, and therefore, no mitigation is warranted under CEQA. The RWQCB may decide to require mitigation under the Porter-Cologne Act, if it deems it applicable, but that is not for the City to determine under CEQA.

RESPONSES TO COMMENT #4: CALIFORNIA DEPARTMENT OF TRANSPORTATION

Comment 4-A Pass-by and Diverted Trip-Reduction: Table 12 (Appendix E), Project Trip Generation Estimates, applies 12% pass-by trip reduction and 44% diverted trip reduction, totaled as 56% trip reduction to several land uses such as: Community Centers, Adult Sports Complex, Swimming Pool, and Branch Library (BL). However, both the pass-by and diverted trip reductions for these land uses are not mentioned in the 2004 *Institute of Transportation Engineers (ITE) Trip Generation Handbook*. While the Department can only acknowledge the trip reductions for BL as referenced in the *San Diego Traffic Generators (SDTG)* manual used in the report, the Department would like to know if the trip reductions for BL in Evergreen Valley College are similar to the SDTG. If not, then the SDTG cannot be used. If they are similar then the SDTG is appropriately used. Please Clarify. If the trip reductions are similar to the SDTG, please submit the access site plan so that we can visualize and ascertain whether the 44% diverted trips to adjacent streets are justified. Also, high trip reductions of 56% for other remaining land uses in similar sites should have supporting studies to validate them.

Response 4-A As the comment notes, the proportion of pass-by and diverted trips generated by the proposed branch library was estimated based on data obtained from the *San Diego Traffic Generators* manual. For libraries, the manual states that pass-by

and diverted trips comprise an average of 12% and 44% of the site-generated traffic, respectively. The 12% pass-by and 44% diverted trip reductions applied to the proposed branch library in this case exactly equal the library trip reductions published in the San Diego Traffic Generators manual.

With respect to the request for a site plan, a detailed site plan is not available at this time. Detailed site plans will be prepared during subsequent stages (e.g., PD permit) of project review. However, for the purpose of this analysis, it is assumed that the proposed branch library would have access to and from Yerba Buena Road. Thus, pass-by trips reflect existing traffic already passing by the project site on this roadway. Diverted trips are expected to come from nearby roadways including San Felipe Road, Nieman Boulevard and Silver Creek Valley Road. Figure 10 (Appendix E) presents the distribution of pass-by and diverted trips for the proposed branch library on the Evergreen Valley College site. There are no published data available regarding pass-by and diverted trips for community centers, adult sports complexes or swimming pools. However, because these types of uses have many of the same characteristics as a library, such as trip patterns and areas/clientele served, it is reasonable for the traffic analysis to assume the same pass-by and diverted trip reduction percentages as used for the library.

Comment 4-B

Total Project Trips per Scenario: Tables 2 and 12 (Appendix E) are confusing as they show that the Total Project Trips per Scenario II through VI are subtracted from the Total Project Trips per Scenario I and referred to as No Project and traffic generated from existing land uses. It is not clear whether the existing land uses would be replaced by the proposed ones as it appears that the traffic under Project Conditions (Scenario II-VI) is estimated by adding existing trips to traffic generated from approved project as well as project per scenario land use. The Total Project Trips per scenario should not include subtractions of Total Project Trips per No Project scenario and traffic generated from existing land use. Please clarify.

Response 4-B

Except for the criminal justice training center and office building on the Evergreen Valley College site, all of the opportunity sites currently are vacant. The Arcadia property has a previously-approved traffic allocation for 217 residential dwelling units and Berg/IDS/Legacy Partners properties have approval for 4.66 million square feet of campus industrial space. These approvals are depicted in Table 2 (Appendix E) under the No-Project Scenario (Scenario I). The trips generated by these approved uses are included in the City of San José's Approved Trips Inventory, which are added to existing traffic volumes to reflect traffic volumes under background conditions.

Except under Scenario VI, which would retain the approved campus industrial development on the Berg/IDS/Legacy sites, the previously-approved on-site uses would all be supplanted by the currently proposed development. Therefore, the project trip estimates shown in Table 12 (Appendix E) correctly subtract the traffic generated by the previously-approved uses from the traffic to be generated by the proposed uses to obtain the net increase in traffic above background conditions attributable to the proposed project.

Comment 4-C Internal Trip Reduction: The internal trip reductions are used twice in Table 12 (Appendix E). In the Arcadia site, the first 5% internal reduction is for non-residential internal trips, while the other 5% internal reduction is used again for residential internal trips. The total internal trip reductions are doubled to 10% daily in the AM and PM peak hour trips. This 10% trip reduction is high and further study should be done in order to justify it.

Response 4-C As stated in the comment, the internal trip reduction is applied to both the non-residential trips and the residential trips. The reduction reflects internal trips in which both trip ends are captured within the same mixed-use development. As explained on page 53 (Appendix E), the proposed residential development on the Arcadia site represents approximately 5% of the total housing stock in the Evergreen - East Hills area per the 2000 Census. Accordingly, it is assumed that 5% of the trips generated by the non-residential uses would be made by new residents of the Arcadia site. In other words, the customers patronizing the non-residential uses would live in the Evergreen-East Hills area, 5% of whom would reside on the Arcadia site and would not travel on off-site roadways. Thus, it is necessary to reduce the trip generation estimate for the proposed Arcadia residential uses by the same number of trips. Applying the 5% internal trip reduction to both ends of the trip is not the same as a 10% reduction.

Comment 4-D EIR Volume I: Improvements to U.S. 101, page S-2: Missing from this list is a new southbound auxiliary lane between Capitol Expressway and Yerba Buena Road.

Response 4-D This component of the 101 Project was not described because it is not a new lane. Rather, it is a conversion of the existing collector-distributor road.

Comment 4-E Operational Improvements on U.S. 101, pages 15 and 16: The document states (page 15)...”a 2005 Initial Study entitled U.S. 101 Operational Improvements from I-280/I-680 to Yerba Buena Road, which was prepared by Caltrans”, and (Page 16)...”evaluated in the Initial Study by Caltrans.” This Initial Study was

prepared by the Valley Transportation Authority (VTA), so please correct this statement.

Response 4-E Caltrans was the CEQA Lead Agency for the U.S. 101 Project and is shown on Initial Study as its author.

Comment 4-F Table 14, page 58: This list of improvements does not match the intersection improvements on Figure 13. Also, page S-6 lists mitigation on Tully Rd./McLaughlin Ave. intersection which is not included in Table 14 or Figure 13. Please revise this.

Response 4-F The City could not find any mismatch between Table 14 and Figure 13. The Tully Road/McLaughlin Avenue intersection is not listed in Table 14 or Figure 13 because it was not originally proposed as part of the project. However, as correctly noted in this comment, mitigation at that intersection will occur.

Comment 4-G Operational Improvements on U.S. 101, page 61: An auxiliary lane in the southbound direction between Capitol Expressway and Yerba Buena Road is missing from this bulleted list.

Response 4-G The bulleted list was taken from the project description of the 101 Project in the Caltrans' Initial Study. This component of the 101 Project was not described because it is not a new lane. Rather, it is a conversion of the existing collector-distributor road.

Comment 4-H Footnote 15, page 61: Auxiliary lanes do not improve weaving as stated in this footnote; they create weaving.

Response 4-H Footnote #15 was copied verbatim from Footnote #3 on page 1 of the Caltrans' Initial Study for the 101 Project. While the City understands the technical point being made in this comment, from a layperson's perspective, an auxiliary lane *does* improve the merging and weaving that occurs between closely-spaced interchanges.

Comment 4-I Figure 15: A southbound auxiliary lane between Capitol Expressway and Yerba Buena Road is missing from this figure.

Response 4-I Figure 15 is a copy of Figure 2 in the Caltrans' Initial Study on the 101 Project. This component of the 101 Project was not shown because it is not a new lane. Rather, it is a conversion of the existing collector-distributor road.

Comment 4-J	Figure 20: Not all of the future signalized intersections are shown here as listed in Table 14.
Response 4-J	Correct. Figure 20 is intended to show the locations of the 99 study intersections that were evaluated as part of the traffic analysis. In contrast, Table 14 lists those existing non-signalized intersections that would be signalized as part of the EEHVS; the intersections listed in Table 14 were not “study intersections” evaluated in the traffic report.
Comment 4-K	U.S. 101, page 118: Blossom Hill interchange is missing from this list of interchanges in the Evergreen area.
Response 4-K	This interchange has been added to the list on page 118. See Section 5, <i>Draft EIR Text Revisions</i> .
Comment 4-L	Effect of Scenarios II-VI on Wait Times at Freeway On-Ramps, page 141, 2nd bullet: 1) this is highly unlikely as there are no improvements recommended to northbound U.S. 101, which is currently experiencing congested conditions. Under No Project 2030 conditions this congestion will increase and no additional on-ramp traffic (beyond existing metering rates) will be able to enter the freeway.
Response 4-L	<p>Future ramp metering rates were taken from the July 2005 <i>Final Draft Traffic Operations Report for the U.S. 101 Operational Improvements Project: I-280/I-680 to Yerba Buena Road</i>, which was prepared for Caltrans. Due to the projected increase in freeway ramp volumes, the report assumed that the ramp meter rates would increase in an attempt to maintain a balance between freeway and local street operations.</p> <p>Even if metering rates were to remain at existing rates for the foreseeable future, it would not change the ramp queuing analysis, because the primary purpose of the analysis is to show the <i>relative differences in wait times</i> between the six EEHVS scenarios. In other words, while changing the base metering rate would effect maximum wait times, the relative differences between the various scenarios would not change. Finally, any change in assumed metering rates would not affect any determinations under CEQA because, as stated on page 141 of the Draft EIR, the data showing ramp wait times is presented for informational purposes only.</p>
Comment 4-M	Table 31 and 32, page 148: The footnotes on these tables state...”see Table 11 for a list of the roadways that are proposed to be downgraded.” Table 11 does not show a list of roadways to be downgraded.

Response 4-M The footnotes should have referenced Table 13. This error has been corrected. See Section 5, *Draft EIR Text Revisions*.

Comment 4-N Appendix E, Table ES-3, page xiv: San Felipe Road and Yerba Buena Road (S) would experience a significant impact in the P.M. peak hour. Need to include mitigation for this significant impact.

Response 4-N Under the applicable threshold of significance, the project would not cause a significant impact at the San Felipe Road/Yerba Buena Road (S) intersection during the PM peak hour under Scenario VI because the project would not cause the delay at the intersection to degrade through an increase of four or more seconds and would not increase the demand-to-capacity ratio 1% or more relative to background conditions. (Appendix E, page 42.) This is due in part to the fact that the capacity of the San Felipe Road/Yerba Buena Road (S) intersection would be increased as a result of the following intersection improvements constructed as part of the project: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added; 2) a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added; 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended. All of these improvements would occur within the existing intersection right-of-way. (See, EIR Section 2.2.5.)

It is also noted that the EIR determined that the project would result in significant impacts at the intersection during the AM peak hour, but that no improvements to the intersection beyond those that will be constructed as part of the project are feasible because of the extensive right-of-way (with accompanying relocations of adjacent land uses) needed to mitigate the impact. For that reason, the EIR concludes that the project would result in significant and unavoidable traffic impacts at the San Felipe Road/Yerba Buena Road (S) intersection.

Comment 4-O Appendix E: Queuing at Freeway Ramp Meters. page xxii, 1st and 3rd paragraphs: The document states (1st paragraph)...”Due to the projected increase in freeway ramp volumes, it is assumed that the ramp meter rates would increase...” and (2nd paragraph) "Although the project would cause an increase in traffic volumes on these ramps, it is anticipated that the metering rates would increase... " Northbound U.S. 101 is already at capacity, and the freeway sections within the Evergreen area are congested. There are no proposed improvements on northbound U.S. 101 and the freeway can not handle any additional traffic in the peak hour. The assumption that the ramp metering rates

will be increased is wrong. The analysis in this document that assumed this ramp meter rate increase needs to be re-calculated using the existing metering rates.

Response 4-O This comment is a restatement of Comment 4-L. Please see Response 4-L.

Comment 4-P Appendix E, Queuing at Freeway Ramp Meters, page xxii, 4th paragraph: The document states.. "the proposed new connection from Yerba Buena Road to northbound U.S. 101 would substantially reduce the queue length and delay at this location to levels that are below existing. This is not necessarily true; currently Yerba Buena Road is metered at the Capitol Expressway CD road. In the future Yerba Buena Road will be metered at the Yerba Buena on-ramp. As no additional traffic beyond existing metering rates will be allowed to enter northbound U.S. 101 due to the current and future congestion on northbound U.S. 101, the delay for Yerba Buena Road traffic would be similar to No Project traffic delay.

Response 4-P One of the main reasons the new direct connection to northbound U.S. 101 from Yerba Buena Road was added to the U.S. 101 Operational Improvements Project by Caltrans was to reduce delays and improve operations at both Capitol Expressway and Yerba Buena Road. With the U.S. 101 operational improvements in place, traffic entering the freeway from Yerba Buena Road will no longer be forced to mix with traffic entering from Capitol Expressway, which will decrease queue lengths behind meters at both locations.

Comment 4-Q Appendix E, Tables 18-22: Tully Rd. to Story Rd. with project-sponsored improvements for all scenarios would also have a significant adverse impact. In addition, capacity of a High Occupancy Vehicle (HOV) lane is 1,650 vph. Recalculate the significant impacts in the HOV lane on these tables using this capacity.

Response 4-Q As stated on page 96 (Appendix E), with the project-sponsored improvement, this segment would continue to operate at an unacceptable level of service (LOS F); however, traffic conditions would be better than under existing conditions. [See, Appendix E, Table 8, page 30, Existing Freeway Levels of Service.] Therefore, with the proposed improvements, the project would have a beneficial impact rather than a significant adverse impact. The analysis of freeway HOV lanes follows the methodology prescribed by the County Congestion Management Program (CMP), which stipulates a capacity of 1,800 vehicles per lane per hour for HOV lanes. The use of 1,800 vehicles per lane per hour is based on data collected on HOV lanes in Santa Clara County.

Comment 4-R	Appendix E, Project Freeway Segment Analysis, page 96: Need to recalculate the HOV lane impacts and include segments with significant impacts in this list.
Response 4-R	Please see Response 4-Q, above.
Comment 4-S	Appendix E, Project Freeway Segment Analysis, page 96: For the proposed freeway improvements funded by the project which would improve traffic operations, why are not the following freeway sections included? U.S. 101 southbound between Tully Rd. and Capitol Expressway and between Capitol Expressway and Yerba Buena Road.
Response 4-S	The statement on page 96 singles out the southbound U.S. 101 segment between Tully Road and Story Road because without the project-sponsored freeway improvements, the project would cause a significant impact on this segment. It is acknowledged that the project-sponsored freeway improvements would also improve traffic operations on the segments listed in the comment; however, the project would not cause a significant adverse impact on these segments even without the project-sponsored freeway assumptions.
Comment 4-T	Appendix E, Queuing at Freeway Ramp Meters, page 97: Per previous comment do not assume that the ramp metering rate will increase by 1,000 vehicles in the build scenarios as northbound U.S. 101 will not be able to handle this additional traffic. Re-analyze ramp queuing and delay without this assumption.
Response 4-T	This comment is a restatement of Comment 4-L. Please see Response 4-L.
Comment 4-U	Appendix E, Freeway Impacts, page 145: The document indicates that the project would cause a significant impact to U.S. 101 southbound between Story Rd. and I-280 (all Project Scenarios). However, Tables 18-22 indicates that the significant impacts will be between Story Rd. and Tully Rd.
Response 4-U	There is no inconsistency. Both page 145 and Tables 18-22 show significant impacts on southbound U.S. 101 between I-280 and Story Road that would occur even with implementation of the project-sponsored improvements. As to the segment between Tully Road and Story Road, Tables 18-22 show that, with the project-sponsored improvements in place, the project would not result in a significant impact to this freeway segment. This same conclusion is reflected in Table 27 of the main text of the Draft EIR.
Comment 4-V	Appendix E, Intersection Level of Service Calculations: The traffic data and calculations used to determine the results of the Transportation Impact Analysis

were not submitted for review. At this time, we have no way of independently verifying the results and conclusions of the Transportation Impact Analysis and can only assume they are correct. Please submit this information for our review and comment.

Response 4-V

Concurrent with the circulation of the Draft EIR, the LOS calculations, along with the complete traffic technical report with all traffic data calculations, were posted on the City's website, along with the EIR and the other EIR appendices. This fact was conveyed by City staff in a 2/27/06 e-mail to the author of the Caltrans comment letter approximately three weeks in advance of the close of the comment period. Caltrans staff responded on the same date, acknowledging that he had accessed the traffic appendices.

Comment 4-W

Community Planning: Walking and bicycling should be made a practical travel option. The Department suggests that residential site plans with cul-de-sacs incorporate pedestrian and bicycle cut-through paths from the end of the cul-de-sac to adjacent streets. Without such a provision, pedestrians and bicyclists have to make long, circuitous trips to access streets that are a short air distance away. This would apply to the Arcadia property, the Pleasant Hills Golf Course property, and the Legacy Partners property.

As a general approach to limit vehicle traffic growth in the redevelopment area, we suggest that accommodations to support pedestrian and bicycle travel be specifically incorporated into the mitigation measures for traffic impacts on local streets and roads, including arterials.

Response 4-W

The City will consider these suggestions when it reviews and comments on the final site plans for each EEHVS opportunity site. The City supports the inclusion of bicycle and pedestrian paths at locations where such facilities will connect neighborhoods to adjacent parks, trails, schools, transit stops, shopping areas, etc.

Comment 4-X

Transit Coordination: Page 61, Section 2.2.1: Both interchange reconfigurations for U.S. 101/Tully Road and U.S. 101/Capitol Expressway from a full cloverleaf design to a partial cloverleaf design could vacate one to two quadrants of each interchange. In total, up to four quadrants could be vacated. These quadrants should be considered potential new sites for Park & Ride facilities. Both interchanges are located within the HOV lane network and should attract solo drivers to car pools and help reduce the overall number of vehicles on the system during the morning commute period. According to the 2004 American Community Survey, 70% of Bay Area commuters are solo drivers.

Response 4-X While loop ramps would be removed from two of the four quadrants at each interchange, the quadrants would not be vacated. Diagonal ramps would still be present in those quadrants, which would leave little space for any type of parking lot. Even if the quadrants were fully vacated, there would be major issues at these locations with regard to access to/from such Park & Ride facilities due to 1) high traffic volumes and 2) proximity to adjacent intersections. Therefore, such facilities are not feasible at these locations.

Comment 4-Y U.S. 101 is considered a Primary Travel Corridor and is within the Department's Transportation Corridor Concept Report (TCCR) # 14 from State Route (SR) 85 in Santa Clara County to SR 156 in San Benito County. Current Corridor studies underway include the Department's Partnership Transportation Studies Branch and VTA's South County Circulation Study (SCCS) from SR 85 to the San Benito County Line.

Response 4-Y Comment noted. No response is required.

Comment 4-Z Volume II, Appendix B, Section V, page 15, Transportation Improvements: The Department suggests adding the following bold text to the document:

The Interregional Road System (IRRS) used by the Department (Caltrans), identifies US-101 as a "Focus Route" and a major north-south connector within the Santa Clara Valley and the San Francisco Bay Area. The route is vital for goods movement, regional and local traffic.

U.S. 101 Corridor Project: This improvement is identified in the U.S. 101 Corridor Study completed by the Valley Transportation Authority (VTA) in 2004. The improvement includes increased mainline and ramp capacity and the conversion of the full cloverleaf interchanges at Tully Road and Capitol Expressway to partial cloverleaf designs. In the northbound direction the design includes adding an HOV lane to the Tully Road on-ramp, adding a mixed-flow lane to the Capitol Expressway on-ramp, and providing two mixed-flow on-ramps from Yerba Buena Road (separating Yerba Buena from Capitol). In the southbound direction, the design includes an auxiliary lane from Tully Road to Capitol Expressway and a mainline lane from I-280 to Capitol.

Response 4-Z This comment requests that the above "bold" text be added to the proposed revised Evergreen Development Policy (EDP), which is Appendix B of the Draft EIR. While the City agrees that U.S. 101 is a vital route, the bolded language is not relevant to the EDP. What is relevant is the description of the U.S. 101 Corridor Project, which is already in the EDP and is reproduced as the last paragraph of this comment.

Comment 4-AA Additional comments, if any, from our Environmental Engineering, Project Management, Design and Traffic Systems functional review branches will be forwarded to you as soon as they are received.

Response 4-AA The City notes that the 45-day Draft EIR comment period concluded on March 20, 2006, which is the date of this comment letter from Caltrans. Per CEQA Guidelines Section 15088, the City is not obligated to respond to late comments.

Comment 4-AB [late comment - received 3/30/06]
The DEIR summary of significant environmental impacts on page S-6 states, “Scenarios II-VI will result in significant traffic impacts on up to 15 segments of U.S. 101, I-280, and I-680 freeway.” Furthermore, the DEIR asserts, “there is no feasible mitigation for these impacts.”

However, the Department commonly employs freeway Traffic Operating Systems (TOS’s) and Ramp Metering Systems (RMS’s) to mitigate the impacts of increased traffic. The potential advantages of adding TOS/RMS elements are congestion relief, decreased delays, protection of the level of service (LOS) and response to freeway incidents. Currently, the Department has some freeway TOS/RMS control elements on U.S. 101, I-280, and I-680.

Contrary to the DEIR conclusions, the expansion and update of the existing ramp metering systems can mitigate the impact of the increased traffic generation from the proposed development. Performance of the existing ramp metering system can be improved by increasing vehicle storage and/or adding preferential high occupancy vehicle lanes (HOV’s) at the on-ramps. Storage can be increased by adding additional ramp lanes, increasing ramp lengths, and constructing additional storage pockets on local roads.

More TOS equipment may be needed in addition to the proposed U.S. 101 physical improvements. Traffic monitoring systems (TMS), closed circuit television (CCTV) cameras, and other TOS elements currently exist on this segment of freeway for monitoring and incident response. When more detailed project information is available, the Department’s Office of Traffic Systems will look at this project for the opportunities to improve the traffic management system in this area by requesting more TOS/RMS elements.

Response 4-AB The conclusion in the Draft EIR that the proposed EEHVS will result in significant freeway impacts is not based on the fact that there will be additional traffic on the on-ramps. Rather, the conclusion is based on the City’s and CMA’s adopted threshold that states “cause a freeway segment to operate at LOS F, or contribute traffic in excess of one percent (1%) of segment capacity

to a freeway segment already operating at LOS F.” As discussed, on page 154 of the Draft EIR, the only way to mitigate this impact is to construct additional through lanes on the freeways, which is not feasible.

As alluded to in this comment, and as described on page 154 of the Draft EIR, the proposed EEHVS will fund substantial improvements on U.S. 101 between the I-280/I-680 interchange and the Yerba Buena Road interchange. These improvements, while not mitigation for the above-described impacts because they do not include additional through lanes, will nonetheless serve to decrease peak-hour congestion and improve peak-hour travel times on U.S. 101. At the time such improvements are constructed, it is assumed that the project will include any infrastructure needed to support the existing TOS/RMS program.

RESPONSES TO COMMENT #5: BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Comment 5-A The District encourages the City to implement all feasible mitigation measures or project alternatives that will reduce this potential impact consistent with CEQA requirements. The District adopted the Bay Area 2005 Ozone Strategy (2005 Ozone Strategy) on January 4, 2006, which replaces the 2000 Clean Air Plan (CAP) and includes new transportation control measures (TCMs). We recommend that the City consider these TCMs in addition to the TCMs identified in the previous CAP.

The District commends the City for including mitigation measure MM 4.4-16 and we recommend specifying the types of new bus stops and improvements to existing stops that are required in the plan's conditions of approval. Providing amenities and maintenance at transit stops is an important factor in encouraging transit usage. We recommend installing bus shelters for stops that are expected to accommodate more than 50 boardings per day and benches or seating attached to poles (e.g., Simme seats) at all other stops within ¼ mile of new developments in the planning area. We also recommend the installation of information kiosks at high-volume transit stops.

Response 5-A The City concurs that it is important for transit amenities to be part of the designs of all new developments. To achieve this objective, prior to final approval of site plans, it is the City's practice to refer the plans to VTA for input on the locations and designs of bus stops. Based upon this input, the City requires applicants to incorporate such features into site plans. The City will require EEHVS developers to include such features in their site plans.

- Comment 5-B** District staff note the plan provides a list of transportation demand management (TDM) measures that are required to be incorporated into all new development in the planning area, to the extent possible. The plan also includes Draft Proposed/Potential Infrastructure Investments and Draft Potential Amenities that propose up to \$235 million to provide community amenities. Certain TDM measures and potential amenities have been incorporated as required mitigation measures (i.e., MM 4.4-16, MM 4.4-17, MM 4.4-20, and MM 4.4-21), but District staff recommend including additional TDM measures and amenities as required mitigation measures to lessen the significant impacts identified for this plan. Specifically, District staff recommend making the following infrastructure investments identified in the plan a requirement of project approval to encourage future and existing residents/employees to use alternatives to the automobile: "Thompson Creek Trail" (\$16.9 million); "Nieman Pedestrian Overcrossing" (\$6.0 to \$8.0 million); "Bike Lanes for Appropriate Corridors" (\$1 million); "Transit Enhancement" (\$3.0 million); "Traffic Calming" (\$5.0 million); "Street Trees" (\$1 million); and "Curb Ramps" (\$1.8 million).
- Response 5-B** BAAQMD's recommendation that the specific community improvement programs listed in this comment be required as conditions of approval have been considered and are noted for the record. The recommendation will be considered by the City Council as part of its decision-making process on the EEHVS.
- Comment 5-C** Additional mitigation measures that could be implemented to reduce the plan's significant impacts include: requiring that transit use incentives be provided to future residents and employees (e.g., providing VTA EcoPass) to encourage transit use in the planning area (TCM 13); requiring a car share program in all developments, when feasible; and expanding mitigation measure MM 4.4-20 to include providing future residents with free shuttle service that connects to transit. Since free parking can be an incentive to drive, we recommend all new development implement a parking cash out program for employees and the unbundling of residential parking spaces (i.e., charge for off-street parking separately from rents), which are measures identified in TCM 15 in the 2005 Ozone Strategy. The District also recommends adding a mitigation measure that would provide for Safe Routes to School planning studies in the planning area to determine if there are infrastructure improvements, safety enhancements, or other programs that could be implemented through the plan to encourage the use of alternative forms of transportation among students (TCM 10 in the 2005 Ozone Strategy). The District recommends that the FEIR discuss the potential emission reductions that could be achieved as a result of implementing these mitigation measures as a condition of approval for all relevant plan scenarios.

Response 5-C

A number of the measures listed in this comment (e.g., providing free or subsidized VTA Eco Passes, implementing a parking cash-out program, or implementing a car share program) may be feasible in certain instances. For example, the cash-out and car-share programs might be feasible if the Berg/IDS and Legacy Partners properties develop with industrial uses because there would likely be a limited number of employers who could administer such programs. These measures have been added to the list of potential TDM measures in MM 4.4-21 and a new measures (MM 4.4-22) has been added; see Section 5, *Draft EIR Text Revisions*.

Providing a residential shuttle system is considered infeasible because, unlike a large campus industrial use where large employer(s) can operate a shuttle, there is no such mechanism for residences. Further, even if there was an available mechanism, it is unlikely the proposed densities would generate sufficient ridership to warrant a shuttle system. At the Arcadia property, which is the one site where proposed residential densities might generate sufficient ridership, a shuttle system would not be needed because the residences will be within easy walking distance of the planned Nieman LRT Station.

The TDM measure of unbundling on-site parking from rental rates, along with other TDM measures, will be evaluated for feasibility by the City Council as part of its decision-making process for the EEHVS.

Development on each of the opportunity sites will be required to include paths, sidewalks, and pedestrian connections to facilitate safe access to schools. This requirement is consistent with TCM 10 in the 2005 Ozone Strategy.

Comment 5-D

Significance criteria are provided in the DEIR for assessing the potential impacts associated with toxic air contaminants (TACs). However, there is no qualitative or quantitative discussion to evaluate potentially significant impacts to sensitive receptors of exposure to TACs from existing or future sources of TACs. The FEIR should provide a TAC analysis to determine the potential impacts and to identify the appropriate level of mitigation needed to lessen the impact if it is found to be significant. If potentially significant impacts are identified, the plan should be conditioned to implement all feasible mitigation measures to reduce the impacts or to inform future and/or existing sensitive receptors of any potential health impacts through rental agreements, real property disclosure statements, and/or mailed notices to existing residents and property owners. Additionally, the California Air Resource Board's (ARB) *Air Quality and Land Use Handbook: A Community Health Perspective* (2005) provides helpful guidance on air quality and siting issues for some land uses. The handbook can be downloaded from ARB's website: <http://www.arb.ca.gov/ch/landuse.htm>.

We recommend the City refer to ARB's handbook when considering the siting of new residential uses and other sensitive receptors in order to avoid conflicts with existing sources of TACs. We also recommend that the FEIR include a list of existing sources of TACs in the planning area and a map illustrating the proposed land uses adjacent to these facilities.

Response 5-D

The EIR text has been revised to include a discussion of TACs. Please see Section 5, *Draft EIR Text Revisions*. For the reasons described in the text revisions, impacts associated with TACs would not be significant.

Comment 5-E

The DEIR identifies the plan's potential to increase the demand for energy as a result of plan implementation from future land uses and transportation systems (Impact 4.12-3) as a potentially significant impact. Increasing the demand for electricity, natural gas and gasoline may result in an increase of criteria air pollutant emissions from combustion, as well as an increase in greenhouse gas emissions, which can impact regional air quality. The DEIR notes that energy use impacts from land use could be mitigated if all energy-related mitigation measures listed in the DEIR are considered feasible and made a condition of approval. We support implementing the mitigation measures identified in the DEIR and recommend revising mitigation measure MM 4.12-6 to require non-residential buildings to achieve an energy efficiency of 15% below Title 24 requirements, which is consistent with the recommended residential requirements. The DEIR notes that significant unavoidable energy impacts will result from implementation of Scenarios II, III, IV, or V. District staff recommend implementing all feasible mitigation measures as a condition of approval to reduce adverse impacts associated with energy use by buildings as well as transportation. We recommend that the FEIR quantify the potential energy savings that would result from implementing these mitigation measures.

Response 5-E

BAAQMD's recommendation that the energy-related mitigation measures listed in the Draft EIR be required as conditions of approval is noted for the record. The recommendation will be considered by the City Council as part of its decision-making process on the EEHVS.

As suggested, the wording of MM 4.12-6 has been revised to clearly state that the goal is an energy efficiency of 15% below Title 24 requirements. Please see Section 5, *Draft EIR Text Revisions*.

Due to the large variation in energy savings that can result from implementation of the mitigation measures listed in the Draft EIR, it would be speculative to quantify potential savings beyond that currently described in the text.

Comment 5-F District staff note the mitigation measures listed under “Mitigation for Long-Term Air Quality Impacts” (4.4.4.2) can help reduce emissions associated with plan implementation for all scenarios. We question whether mitigation measure MM 4.4-19, which would require fireplaces installed in residences to comply with San José's Wood-Burning Ordinance (#26133) for all new residences, should be considered a mitigation measure for this plan since all new development and remodels in San José must already comply with this law. Compliance with this ordinance should have been taken into consideration when particulate matter emissions for the plan were calculated. The FEIR should provide the methodology for the particulate matter emission impact calculation. We also recommend that mitigation measure 4.4-19 be revised to permit only gas fireplaces in all residential development.

Response 5-F Compliance with the Wood-Burning Ordinance was listed to inform the general public that new construction will include fireplaces that limit emissions. Particulate emissions were calculated using the CARB URBEMIS2002 model, as stated in Appendix G of the Draft EIR. The City's Wood- Burning Ordinance requires fireplaces to be gas.

Comment 5-G Even if the plan's significant impacts on air quality and energy use cannot be mitigated to less than significant levels, CEQA requires that the lead agency implement all feasible mitigation measures that will reduce this potential impact before approving this project. We recommend that the FEIR evaluate the effectiveness of mitigation measures identified in this comment letter both qualitatively and quantitatively (when possible). Any mitigation measures considered infeasible should be identified in the FEIR as well as the justification for that determination. If the justification for rejecting a mitigation measure's feasibility is cost, we request that the FEIR discuss whether any other project amenities could be eliminated or scaled-back to pay for those mitigation measures.

Response 5-G For the reasons described in the above responses, some of the measures suggested in this comment letter (e.g., residential shuttle system) are considered infeasible. Other suggested measures have been added to the list of potential TDM measures. Finally, the City Council will consider the feasibility of the energy measures at the time of project approval. Part of the feasibility determination will likely include cost because there are competing requests from the community for the project to fund various community amenity projects (e.g., parks, trails, community centers, libraries, etc.)

Comment 5-H District staff request that the City provide a hard copy of the proposed response to these comments at least 10 working days prior to certifying the FEIR (CEQA Guideline 15088(b)).

Response 5-H It is the City's policy to provide this document to all who submitted comments on the Draft EIR at least 10 days prior to certifying the Final EIR, as stated in CEQA Guidelines §15088(b).

RESPONSES TO COMMENT #6: SANTA CLARA COUNTY PARKS & RECREATION DEPARTMENT

Comment 6-A *Relationship to the Santa Clara County Countywide Trails Master Plan Update:* The DEIR does not adequately describe the new trails and open space connections relative to the Countywide Trails Master Plan, and as referenced in comments submitted on previous projects related to the Evergreen Visioning Project including the Thompson Creek Trail Master Plan. The DEIR does not adequately address pedestrian crossings at intersections to access proposed trails or parks.

The Land Use sections of the DEIR should address the County's General Plan policies regarding the countywide trails given the nexus of the proposed project sites to the location of regional trail routes along San Felipe Road, Yerba Buena Road, Capitol Expressway, and Quimby Road. The DEIR should acknowledge the policies and guidelines of the Santa Clara County Countywide Trails Master Plan Update ("Countywide Trails Master Plan"), which the County Board of Supervisors approved in November, 2005, as part of the Parks and Recreation Element of the County of Santa Clara General Plan (1995-2010).

Within the vicinity of the proposed project sites, the DEIR should describe the following countywide trail routes which offer opportunities for non-motorized transportation connections to the surrounding neighborhoods, parks, trails, and open space areas.

Arcadia Site - Silver Creek Connection Loop Trail (Route C22) - Located along the east boundary of parcel APN 679-29-020 of the Arcadia project site and paralleling Capitol Expressway. This trail is designated as a route within other public lands for hiking and off-road bicycle use.

Evergreen Valley College Site - Silver Creek Connection Loop Trail (Route C22) - Designated as a route within other public lands for hiking and off-road

bicycle located west of parcel APN 660-21-021 of the Evergreen Valley College site.

Evergreen Valley College Site - Silver Valley Connecting Trail (Route C21) - Designated as a route within other public lands for hiking and off-road bicycle use. Located on the southern boundary of the Evergreen Valley College Site along Yerba Buena Road.

Legacy Partners Site - Silver Valley Connecting Trail (Route C21) - Designated as a route within other public lands for hiking and off-road bicycle. Located on the southern boundary of the Evergreen Valley College Site along Yerba Buena Road. It is located within the southern boundary of the Legacy Partners site parcels APN 660-19-005, 660-19-020, and 660-19-021.

In accordance with the policies of the 1995 Countywide Trails Master Plan, the proposed improvements and extension to Yerba Buena Road should take into account the Silver Creek Connecting Trail route (C21), and, in addition, consider possible easements in order to develop segments of this regional trail route.

The DEIR should also consider the opportunity to link proposed trail routes within the Legacy and Berg/IDS sites to regional trail routes by providing connections to the Silver Valley Connector Trail and/or Silver Creek Connection Loop Trail.

Silver Creek Connection Loop Trail (Route C22) - This trail is part of a proposed trail system that links Evergreen Valley to the Bay Area Ridge Trail, and via Silver Valley Connecting Trail, connecting Coyote Creek County Park to Joseph D. Grant County Park. The trail segment from Lake Cunningham south to Heartland Way via Thompson Creek and San Felipe Road as referenced in the Thompson Creek Trail Master Plan, February 2005, is part of the Silver Creek Loop Trail (Route C22).

It appears that the Thompson Creek Trail noted in section 2.2.24 of the DEIR follows the same alignment as portions of the Silver Creek Connection Loop Trail. However, the DEIR should clarify whether development of the trail as outlined is part of this project, or part of a future Thompson Creek Trail Master Plan implementation project.

Regional Staging Areas - The Trails Element of the Parks and Recreation Chapter of the 1995 General Plan also identifies parcel APN 660-19-005 and a portion of parcel APN 660-19-021 of the Legacy Partners and Berg/IDS sites as

being within an the General Area of Evaluation for New Regional Staging Areas, (Evergreen College/Montgomery Hill Park). The DEIR should include a discussion of the development of regional staging areas.

Response 6-A

The City has confirmed with the author of this comment that the *Countywide Trails Master Plan* was last updated in 1995, not 2005. This is an important clarification because the City has been refining and updating its planned network of trails since the Countywide update, primarily through its *Greenprint: 20-Year Strategy for Parks, Community Facilities and Programs* (2000). This is why there appears to be some confusion as to consistency between the City and County Plans, names of trails, trail alignments, etc.

After reviewing and comparing the Countywide Trails Master Plan to the City's plans, the City has determined that there are no substantial inconsistencies:

- The County's Silver Valley Connecting Trail (C21) is the same as portions of the City's Silver Creek Valley, Thompson Creek, Yerba Buena Creek, Montgomery Hill, and Evergreen Creek Trails. Both the County and City trails would accomplish the goal of providing a connection between the Coyote Creek Trail and the Bay Area Ridge Trail in Grant Park.
- The County's Silver Creek Connecting Loop Trail (C22) is the same as portions of the City's Silver Creek Valley, Thompson Creek, and Upper Silver Creek Trails. These alignments would provide trails within Evergreen, connect to regional parks such as Lake Cunningham, and provide connections to regional trails.

As a point of clarification, none of the County's trails are on any of the EEHVS opportunity sites. For example, C22 is not on the Arcadia property; Thompson Creek is on the opposite side of Capitol Expressway from the Arcadia property. Similarly, C21 & C22 are not on the Evergreen Valley College property; Yerba Buena Creek is on the opposite side of Yerba Buena Road from the Evergreen Valley College property.

As noted on page 50 of the Draft EIR, the development of the Legacy Partners property includes the construction of a trail along the reach of Evergreen Creek that crosses the property. This trail would connect to the Evergreen Creek and Montgomery Hill Trails on the west side of Yerba Buena Road. It could also be extended in the future to the east, which would complete the planned connection to the Bay Area Ridge Trail.

The trail segment to be constructed on the Legacy Partners property would include an extension to the north where it would connect with a trail to be constructed on the Berg/IDS property. Trail improvements on the Berg/IDS property would include a new trail along the reach of Fowler Creek that crosses the property (see page 47 of the Draft EIR).

There are no proposals to include regional staging areas on any of the EEHVS opportunity sites. For persons who would drive into the area to use the trails, the primary access points would be the many parks through which the trails pass.

The trail-related projects that are listed in Table 15 of the Draft EIR (e.g., the Thompson Creek Trail and the Upper Silver Creek Trail Extension) are those already planned for the Evergreen • East Hills area, irrespective of the EEHVS. They are listed because the EEHVS may include funding for these projects. The level of EEHVS funding for each project will be determined by the City Council.

Comment 6-B

Transportation: The DEIR should evaluate traffic and circulation conflicts as a result of the development of the proposed sites that may impact designated regional trail routes and/or public access to trails, parks, and open space. In addition, the design of ingress and egress from the project sites should take into account existing and future trail routes.

Response 6-B

No development associated with the EEHVS would conflict with, or preclude, existing/future trails. Further, there are no proposed roadway improvements that would pose an impediment to future trails. Where a proposed trail would cross an existing roadway, the location will be designed to allow pedestrians, bicyclists, equestrians, etc. to safely cross.

Comment 6-C

Biological Resources, Burrowing Owl and Owl Habitat, and Nesting Raptors: The DEIR states that the impacts to Borrowing Owls and their habitat would be significant and unavoidable. Further, the DEIR states "significant impacts to nesting raptors and owls will be mitigated by measures to be undertaken by each project as required by state and federal law". However, the Arcadia site projects in particular, which according to section 4.6-5 of the DEIR is analyzed as a project in the DEIR, do not include mitigations for these impacts. This is contradictory to the previous statement, and non-compliant with state and federal law, and the City's Species of Concern Policy (policy #4).

Further, the DEIR, in order to comply with federal and state law, and article 6 section 15126.4 of the CEQA guidelines, should make definitive statements to ensure that specific mitigation measures are identified and implemented, and/or

that performance measures are clearly established and include clearly stated outcomes. Formulation of mitigation measures should not be deferred until some future time, and must be fully enforceable through legally binding instruments.

Response 6-C

Page 218 of the Draft EIR describes the specific measures that will be undertaken to avoid harm to any nesting raptors and nesting burrowing owls during construction. As noted in the text, all of these measures are included as part of the project.

Pages 219-221 of the Draft EIR describe a number of specific measures that could mitigate for the loss of burrowing owl habitat. As noted in the text, the developer of the Arcadia property has not included any of these measures as part of the proposed project. Therefore, it will be up to the City Council to require the mitigation as a condition of approval unless the Council determines that the mitigation is not feasible.

All mitigation measures will be included in a Mitigation Monitoring and Reporting Program. All mitigation measures required by the City as conditions of approval are legally enforceable.

Comment 6-D

Cumulative Impacts: The DEIR, Section 7.3.6.7, states that significant cumulative impacts to Burrowing Owl habitat and the loss of mature trees will occur, therefore, a statement of overriding considerations will be considered. The DEIR analysis is, therefore, incomplete, as this statement does not provide conclusions or an adequate explanation for such findings. Further, in accordance with article 6 section 15093, the DEIR should definitively state that a statement of overriding considerations will be made. The statement of overriding considerations must also be supported by specific reasons for such a finding, and include substantial evidence in the record.

Response 6-D

The facts that support the conclusions listed in Section 7.3.6.7 are found in Sections 7.3.6.2 (Burrowing Owls) and 7.3.6.4 (Trees). The reason the text states that a statement of overriding considerations “will be considered” instead of “will be made,” is as follows: Such decision rests solely with the City Council, such decision occurring after completion of the EIR. If the Council decides not to approve the project, or to modify the project to where, for example, no burrowing owl habitat is lost, then a statement of overriding considerations would not be needed for that impact. Conversely, if the Council decides to approve the project, then a statement of overriding considerations will be required. Finally, there is no requirement for an EIR to list the facts supporting an override of one or more significant impacts. The only

requirement is that such facts “shall be supported by substantial evidence in the record.” (CEQA Guidelines §15093 (b))

Comment 6-E *Previous Comments submitted on related projects:* Comment letters were submitted to the San José Planning Department June 1, 2005 regarding related projects File No. PDC05-052 and PDC05-048. In addition, Santa Clara County Parks and Recreation Department submitted comments on May 13, 1991 on the Evergreen Specific Plan Draft EIR, 1st Amendment Draft.

Response 6-E The 6/1/05 comment letters advise the City of the proximity of the Berg and Legacy Partners properties to various future trails and staging areas identified in the *Countywide Trails Master Plan*, the same facilities described above in Comment 6-A. None of the EEHVS opportunity sites are within the area encompassed by the 1991 Evergreen Specific Plan.

RESPONSES TO COMMENT #7: SANTA CLARA COUNTY ROADS & AIRPORTS DEPARTMENT

Comment 7-A The submitted document does not address the Traffic Impact on Capitol Expressway in a meaningful way. There is no comparison between the background Level of Service (LOS) and the proposed project LOS. The proposed improvements on Capitol Expressway are on the side streets, which will improve LOS on these side streets but actually degrade the LOS on Capitol Expressway. Some of the proposed improvements will not be part of the proposed project, but will be part of the LRT project. An example is converting the High Occupancy Vehicular lane on Capitol Expressway between 101 and Nieman Boulevard to mixed-flow lanes.

Response 7-A Section 4.2, Transportation & Traffic, shows peak-hour traffic operations along Capitol Expressway under the following scenarios:

- Existing: existing volumes with existing traffic lane configurations
- Scenario I/Background/No Project: traffic from approved-but-not-yet-constructed projects is added to existing volumes; the approved LRT extension to Nieman Blvd., which includes the removal of HOV lanes between I-680 & Nieman Blvd., is assumed to be in place; and improvements to the Capitol/Story and Capitol/Aborn intersections are assumed to be in place.
- Scenarios II-VI: EEHVS-generated traffic is added to background volumes; background improvements (described above) are assumed to be in place; HOV lanes between U.S. 101 and Nieman Blvd. are

assumed to be converted to mixed-flow lanes; and improvements to the Capitol/Quimby, Capitol/Silver Creek, and Capitol/McLaughlin intersections are assumed to be in place.

These are the typical scenarios used in most Traffic Impact Assessments (TIAs) that are prepared in accordance with the adopted City and VTA TIA Guidelines. Specific to the comment that there is no comparison between the background LOS and the proposed project LOS, EIR Table 26, *LOS Comparisons At Congested Intersections*, shows the projected LOS under each of the five project scenarios as compared against background conditions. Table 26 addresses the nine study area intersections that would operate at LOS E or F under one or more of the project scenarios. As noted in the EIR text, due to the large number of intersections within the traffic analysis study area (99 intersections), and the related variations associated with five development scenarios, the tables and text in the main body of the EIR focus only on the nine congested intersections, eight of which would be significantly impacted under the project scenarios. EIR Appendix E, Tables 13 through 17 (pages 66 through 80), show a comparison of the background and project LOS for each of the 99 study area intersections. Specific to Capitol Expressway, as shown in EIR Table 26, the traffic impact analysis determined that five Capitol Expressway intersections would be significantly impacted under one or more of the project scenarios.

Comment 7-B As you may be aware, the City of San José has indicated the intent to accept the relinquishment of Capitol Expressway from the County. Because the date of the relinquishment acceptance is unknown, Roads and Airports Department believes that the improvements to Capitol Expressway should be implemented prior to relinquishment as part of this project.

Response 7-B The proposed transfer of Capitol Expressway from the County to the City is noted on page 63 of the Draft EIR. The timing of this transfer, the schedule for LRT construction, and the schedule for improvements to the Expressway, are all issues that will need to be worked out between the affected parties. Both City and County staff have developed a draft agreement for consideration.

Comment 7-C A statement of overriding consideration (Page 337) should not be used for Capitol Expressway, because Capitol Expressway is a major road that connects three freeways (87, 101, and 680).

Response 7-C The decision regarding the adoption of a statement of overriding considerations rests solely with the City Council, such decision occurring after completion of the EIR. If the Council decides not to approve the project, then a statement of overriding considerations would not be needed. Conversely, if the Council

decides to approve the project, then a statement of overriding considerations will be required.

Comment 7-D The "Comprehensive County Expressway Planning Study" completed in 2003, indicated that the intersections at Capitol Expressway/Story Road, Silver Creek are currently operating at LOS F. The intersections at Ocala Avenue, Quimby Road, Capitol Avenue and Tully Road will reach LOS F in 2025. The existing conditions of LOS of intersections as shown on the EIR are upgraded compared to the Expressway Study done in 2003.

Response 7-D The existing levels of service shown in the Draft EIR are based on traffic counts that were taken in 2004 and 2005, which is after completion of the Expressway Planning Study. For a list of traffic count dates, please see Table 7 in Appendix E of the Draft EIR.

Comment 7-E The assumption that the "area residents presently working outside the area will be working inside area if campus industrial use are constructed" is vague, has no warrant and is speculative. This assumption lowered the number of vehicles and improved the base calculation of LOS. Improvements will attract more commuters and increase the number of vehicles which will worsen the traffic condition.

Response 7-E Based on surveys of workers and the results of origin-destination studies, it is well-known that most workers' first choice is to seek housing in proximity to their job sites. This fact is the reason why most general plans and clean air plans include policies that encourage the construction of housing near employment centers.

RESPONSES TO COMMENT #8: SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

Comment 8-A As emphasized in our previous comments on the EEHVS, VTA is deeply concerned that the proposed land use densities at the Arcadia site are insufficient to support a light rail station. VTA strongly advocates higher land use densities and mixed-use development for this location - these are essential for maximizing future transit investment and addressing the traffic concerns expressed by the neighborhoods.

Arcadia Site: As stated in our earlier comments, the Arcadia site presents an excellent opportunity for community building and to incorporate the principals of Transit Oriented Development, and VTA's Community Design &

Transportation (CDT) Program, which the City of San Jose has endorsed. Through the study of the Capitol Expressway Light Rail extension, VTA staff has been evaluating the issues related to implementing Light Rail Service at Nieman Boulevard, immediately adjacent to the site. The current estimated cost of capital transit improvements at Nieman Boulevard is \$118 million (Y2003 dollars). In addition, the "Nieman Extension" was included in the previous Capitol Expressway Light Rail Extension Preliminary Engineering Study and Environmental approval process with the assumption that the adjacent land use would be developed at high-density with a mixture of uses.

Based on information provided by City of San José staff, VTA assumed that the 3,000 residential units, as suggested earlier, would be developed on the Arcadia site, and thus subsequent ridership estimates were based on this land use assumption. In light of the apparent lack of sufficient density now being proposed, VTA cannot endorse an extension of Light Rail investment to Nieman Boulevard as this weakens the cost-effectiveness of building Light Rail.

Response 8-A

The City's General Plan Land Use/Transportation Diagram identifies the Arcadia site as being located along the Capitol Expressway Transit-Oriented Development Corridor where higher intensities of development, including high density residential and mixed use development, is encouraged consistent with the goals and policies of the General Plan.

In the proposed project, the Arcadia site could be developed with a mix of uses primarily consisting of up to 2,025 residential dwelling units, 300,000 square feet of commercial, and park/open space. Other uses that are likely to occur on the site include an up to 40,000 square foot community center and a new public elementary school.

3,000 units on Arcadia originated from a community charrette process and the resulting November 2003 Evergreen-Eastridge Plan. The 3,000 units from the charrette were then used as a starting point for the early plans that were developed for the Evergreen Smart Growth Strategy (ESGS)/Evergreen Visioning Project (EVP). Two years of the community-based ESGS/EVP process and extensive public outreach resulted in a proposed range of development for the Arcadia property that included between 1,500 and 2,025 residential units.

The proposed project, with an approximate average density range of 30 to 40.5 dwelling units per acre is consistent with the City of San José General Plan definition of High Density Residential (25-50du/ac).

Although the density under the proposed project remains high, it is less than the density used when VTA assumed 3,000 units would be built on Arcadia. Ultimately it is up to the VTA to make the determination that the proposed project would not provide sufficient density to justify the expense of extending light rail to Nieman Boulevard.

Comment 8-B

Density: According to the Community Design and Transportation (CDT) Manual, land uses around a potential Nieman Light Rail Station would be considered to fall between the local station area and regional station area designations. Accordingly, residential densities within the station area can support have an average of 60 du/ac and a minimum of 45 du/ac.

The Draft EIR does not explicitly explain the proposed residential densities of the Arcadia site by acreage, thus it is not possible to determine the average density of the residential portion of the site. It is safe to say, however, that even the scenario featuring the greatest residential densities will not come close to VTA's recommendations.

Response 8-B

Taking into consideration the airport safety zone, streets, park/open space, a community center, stand-alone commercial, and a possible new elementary school, a conservative estimate for the net remaining land available for residential purposes is 50 acres. With the proposed unit range of 1,500 to 2,025 units, the approximate average density would be between 30 and 40.5 dwelling units per acre. To provide a compatible edge with the existing adjacent low density single-family development, the western portion of the site could have densities ranging from 12 to 25 dwelling units per acre. The densities for the interior of the site and adjacent to the planned LRT station could range from 25 to 75 or more dwelling units per acre.

According to the Community Design and Transportation (CDT) manual, the average residential density range recommended for a regional station area is between 35 and 75 dwelling units per acre and between 20 and 45 dwelling units per acre for a local station area. If the Nieman LRT Station would be considered between a regional and local station, the recommended average residential density would be between 27.5 and 60 dwelling units per acre. The proposed Arcadia project, with a range of 1,500 to 2,025 units, would result in an approximate average density of between 30 and 40.5 dwelling units per acre, which falls within the CDT manual's recommended average residential density range.

Comment 8-C

Layout: The proposed street layouts, for the most part, feature few entrances that branch into multiple cul-de-sacs. This discourages bicycle and pedestrian trips

since residences must retrace circuitous routes to exit and enter their neighborhood. VTA recommends a grid-style layout that provides multiple entry/exit points and ensures that residents have a variety of route choices.

Response 8-C If the EEHVS is approved, the City's review of all final site plans will address this issue. The City requires development to include designs and features that promote bicycling and walking. The City has policies that encourage bicycle/pedestrian connections through neighborhoods - especially where such connections provide access to nearby schools, trails, parks, stores, and transit stops.

Comment 8-D Eastridge Transit Center Linkages: VTA is proposing significant pedestrian, bicycle, and transit investment in this area, including landscaping. The long-term plans for the area call for additional transit investment in the Capitol Expressway Corridor from Nieman Boulevard to State Route 87. The Eastridge Transit Center is one VTA's busiest hubs in its transit system, serving close to 2,100 riders per weekday. The importance of the Eastridge Transit Center will continue to grow with the addition of improved transit services, like the recent Rapid Bus Line 522.

To support this high level of transit investment, the land use and site plans developed for the EEHVS should reflect development densities, intensities and designs that promote the use of these pedestrian, bicycle, and transit improvements. Specific design guidelines, such as the City's Transit Oriented Guidelines and VTA's Community Design & Transportation (CDT) Program, should be used to maximize the use of the future bicycle, pedestrian and transit investments.

Response 8-D The City has policies that support land use designs and intensities that promote the use of transit, bicycling, and walking. As noted in Response 8-C, the City's review of all final site plans will address this issue.

Comment 8-E Impacts on Bicycle, Pedestrian, and Transit Facilities: The EEHVS Draft EIR should assume light rail operations at 10-minute peak weekday operations as stated in the Capitol Expressway Corridor Final EIR instead of the 15-minute peak headways stated in the Draft EIR on page 143.

Response 8-E This change has been made, as requested. See Section 5, *Draft EIR Text Revisions*.

**RESPONSES TO COMMENT #9:
SANTA CLARA VALLEY WATER DISTRICT**

Comment 9-A Page 13, 1.5.2, Level of Environmental Review Provided by This EIR: The SCVWD's role should be revised to include flood hydraulic review, water supply assessment, and groundwater management.

Response 9-A The text has been revised to reflect this comment. See Section 5, *Draft EIR Text Revisions*.

Comment 9-B Page 240, 4.8.3.1, Threshold of Significance: Our October 31, 2005, letter stated that the project will substantially increase the impervious surfaces and thus decrease groundwater recharge. The Draft Environmental Impact Report (DEIR) notes that "a hydrologic impact is considered significant if the project would ... substantially deplete groundwater supplies or interfere substantially with groundwater recharge." However, the potential impacts of impervious surfaces on groundwater recharge is not mentioned/addressed in the DEIR.

It was also noted in our October 31, 2005, letter that the groundwater subbasin in the Evergreen area is unconfined with potential for the land use to adversely impact the groundwater quality. It was advised that alternatives for zoning, design guidelines, development agreements, and development permits be evaluated for their ability to protect groundwater quality. In addition, it was recommended that mitigation measures and active groundwater monitoring with response plans be incorporated in the DEIR to address groundwater protection.

No groundwater monitoring plans have been recommended in the DEIR. Groundwater and soil contamination discussion in the DEIR has largely been limited to discussion of existing conditions and their potential impact on the proposed development, without adequately addressing potential future impacts from the proposed development and monitoring for those potential impacts. Although the DEIR mentions hazardous materials that could result from industrialized uses at the property, the discussion of impacts limit the discussion to schools, residential land uses, and other land uses without addressing the potential for impacts to the groundwater resource.

Response 9-B The SCVWD comment about the significance of loss of deep percolation due to the placement of impermeable surfaces on 488 acres in the Evergreen area of San José has been noted. The procedure used to more accurately assess this impact was through the continuous simulation hydrology model used to size the HMP basins for the sites. A 30-acre site was selected and the pre- and post-development deep percolation (percolation in the soil that went beyond -

i.e., below - the root zone) was estimated as part of the model's computational procedures. For the 53 years of record, the amount of deep percolation pre-development was 300 acre-feet. For post-development it was 200 acre-feet.

Over the 488 acres of proposed land use changes for the 53 years of simulated runoff, the amount of loss of deep percolation was calculated to be 30.7 acre-feet per year. The significance of this amount may be assessed by comparing it to the potential extraction from the local groundwater by wells noted to be in the process of abandonment or already abandoned. If only 10 percent of the 488 acres was under irrigation at some time in the past, and with annual irrigation requirements of approximately 2 acre-feet per acre of cultivated land, the wells would have been extracting at least 100 acre-feet per year from the local groundwater. As these wells are no longer used, the gain of at least 100 acre-feet per year more than offsets the loss of 31 acre-feet per year due to the construction of impervious surfaces.

The entire watershed area upstream of Lake Cunningham is over 26 square miles (i.e., almost 17,000 acres), so that the potential loss over the entire watershed is very small. Therefore, the impact to groundwater recharge in the planning area does not appear to be a significant factor when considering the regional groundwater supply.

Comment 9-C

Page 244 and Page 245, 4.8.4.2, Post-Construction Mitigation Measures: The issue of potential impacts to groundwater quality is referred to on page 244 of the DEIR; Mitigation Measure MM 4.8-5:

"The final design of all HMP basins...shall require review by the City and approval by the Director of Planning, Building and Code Enforcement. This will ensure that the final design not only meets the requirements of City Council Policies 9-29 and 8-14 but also addresses related issues such as groundwater protection, dual use, safety... The project applicant shall defer to the California Stormwater Quality Association's Stormwater Best Management Practice Handbook for New Development and Redevelopment (January 2003) for the design and sizing of extended detention basins."

On page 245, the DEIR states that preliminary analysis was undertaken that assumed groundwater is no closer than 10 feet from the bottom of the basin. However, the DEIR also states that the depth to groundwater in many portions of the site is significantly less than 10 feet from ground surface. In order to adequately protect groundwater from runoff from industrial and other non-residential uses, 10 feet separation may not be adequate without pretreatment of the runoff.

Additional water quality control measures may be required for the HMP basins in accordance with NPDES permit for Santa Clara County and the provisions of the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook. In accordance with these programs, the design of the HMP basins must ensure that groundwater subbasin is adequately protected.

Response 9-C

The statement on page 245 of the Draft EIR is intended to convey the fact that there will be a minimum separation of 10 feet between the bottom of HMP basins and groundwater *where percolation will be allowed*. This is in accordance with SCVURPPP guidelines. Nonetheless, as noted in this comment, the City will require that all HMP basins be designed to protect groundwater. In some cases, this could result in separations greater than 10 feet, if warranted, based on site-specific conditions.

Comment 9-D

Page 248 and Page 249, Footnote No. 76, 4.9.2, Existing Conditions: Regulation of Hazardous Materials (Table 51) inaccurately notes that the "Santa Clara Valley Water District ... oversees remediation of contamination at various sites." The SCVWD no longer directly oversees the remediation of leaking USTs. This responsibility has been transferred to the Santa Clara County Department of Environmental Health. Likewise, please correct Footnote No. 76 on page 249.

Response 9-D

The text has been revised to reflect this comment. See Section 5, *Draft EIR Text Revisions*.

Comment 9-E

Page 250, 4.9.2.2, Existing Conditions on the Pleasant Hills Golf Course Property: The report notes "two wells on the property that were used for golf course watering, one of which is inactive and closed." For clarity, please elaborate on the "inactive" status of the well and replace the word "closed" in reference to the other well's status with one of the following terms: "abandoned," "active," "destroyed," or "unknown." Per California Well Standards (Bulletin 74-90) "a monitoring well is considered 'abandoned' or permanently inactive if it has not been used for one year, unless the owner demonstrates intention to use the well again." All permanently inactive or "abandoned" monitoring wells shall be properly destroyed. In accordance with Section 2400 of the California Health and Safety Code, "the monitoring well owner shall properly maintain an inactive well, as evidence of intention for future use, in such a way that the following requirements are met:

1. The well shall not allow impairment of the quality of water within the well and groundwater encountered by the well.

2. The top of the well or well casing shall be provided with a cover, that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault or below known level of flooding. The cover shall be watertight, if the well is inactive for more than five consecutive years. A pump motor, angle drive, or other surface feature of a well, when in compliance with the above provision, shall suffice as cover.

3. The well shall be marked so as to easily visible and located, and labeled so as to easily identified as a well.

4. The area surrounding the well shall be kept clear of brush, debris, and waste materials."

Response 9-E Per the criteria described in this comment, the subject well would be considered "abandoned."

Comment 9-F Page 253, 4.9.2.5, Existing Conditions on the Evergreen Valley College Property: Soil samples collected approximately 0.5 to 1.0 feet below ground surface (bgs) show up to 15,000 parts per million (ppm) of lead (SS-6), including up to 6.26 ppm of soluble lead (SS-7) at the former/current firing range training site. Also, high levels of banned insecticide chlordane were detected up to 1.1 ppm. We understand much of the impacted soil is planned to be removed and disposed; however, the vertical extent of soil contamination needs to be clarified/assessed (for example the types of soils directly beneath these impacted soils? depth to first encountered groundwater? groundwater quality?). Sandy soils have been identified from ground surface to first encountered water bearing zone from a nearby site (MW-1--LOP No. 14-529) suggesting that vertical migration of contaminants to groundwater is possible. Please elaborate on the risks of impacted soils to groundwater quality. Groundwater nearby is generally shallow (approximately 11-13 feet bgs) and the MCL for chlordane is 0.002 ppm.

Response 9-F This comment pertains to an existing condition, not an impact of the proposed project. Any potential risk to groundwater due to existing conditions will be lessened by the project because 1) further contamination will cease with the closure of the firing range and 2) remediation of existing contamination will occur (per MM 4.9-19). Remediation will take potential effects on groundwater quality into account.

- Comment 9-G** Page 255 and 257, 4.9.3.3 and 4.9.3.6, Hazardous Materials Impacts on Pleasant Hills Golf Course Property and Evergreen Valley College Property: As stated on pages 255 and 257 of the DEIR, chlordane, arsenic, and lead concentrations exceeding normal background levels are found in the soils on the Pleasant Hills Golf Course Property and the Evergreen Valley College Property. MM 4.9-17, 4.9-18, and 4.9-19 state that these hazards will be removed in accordance with existing regulations that are designed to protect workers and the environment. Given the sensitivity of the groundwater subbasin in this area, it is important to recognize that the groundwater resource is an important element of the environment that needs to be protected. In addition, any grading modifications or stormwater facilities should be designed to ensure that the development does not facilitate the migration of these contaminants into groundwater.
- Response 9-G** The City concurs that the protection of groundwater quality is one of the objectives in removing the above-described contaminants. In addition, as noted on page 244 of the Draft EIR, the design of all HMP basins shall address the protection of groundwater.
- Comment 9-H** Page 258, 4.9.3.8, Hazards and Hazardous Materials Impacts at King/Tully Intersection: The proposal may include the acquisition of property which currently has two monitoring wells (MW-1 and MW-6) owned by Shell Corporation used to monitor clean-up efforts of their active fuel leak site at 1698 Tully Road, San José, CA. Please note that although MW-1 continues to show some residual dissolved groundwater contamination of up 1,600 parts per billion (ppb) TPHD, including 20 ppb Benzene (sampled 12/08/2005), both wells are located at times downgradient of plume and are, therefore, key in verifying the effectiveness of Shell's clean-up work. Please ensure their protection and/or their replacement as appropriate by coordinating work with Shell and the LOP case worker, Mr. Jorvina Mamerto at the Santa Clara County Department of Environmental Health, at (408) 918-1954.
- Response 9-H** The wording of MM 4.9-21 has been modified to reflect this comment. See Section 5, *Draft EIR Text Revisions*.
- Comment 9-I** Page 259 and 260, 4.9.4.2, Mitigation Measures Applicable to the Pleasant Hills Golf Course Property (MM 4.9-5, MM 4.9-7, and MM 4.9-15): The report notes that "existing irrigation wells shall be closed in accordance with SCVWD procedures." Please revise the report to read the following: "Any abandoned wells (irrigation, domestic, monitoring, etc., ...) shall be properly destroyed in accordance with SCVWD procedures (Ordinance 90-1)." A table and map of abandoned wells and proposed wells for proper destruction should be included in the report. Please coordinate with SCVWD's Wells Unit for well surveys,

well records, and well destruction permits at (408) 265-2607, extension 2743 (Attention: Mike Duffy).

Response 9-I

The requested language has been added to MM 4.9-5, MM 4.9-7, and MM 4.9-15; see Section 5, *Draft EIR Text Revisions*. According to the Phase I reports (Draft EIR Appendix L), the list of wells that would be affected by the proposed EEHVS is as follows:

Pleasant Hills Golf Course Property: 2 wells (see Section 3.31 of Phase I)

Berg/IDS Property: 6 wells (see pages 12-13 of Phase I)

Legacy Partners Property: 2 wells (see page 2 of Phase I)

Comment 9-J

Page 261, 4.9.4.5, Mitigation Measures Applicable to the Evergreen Valley College Property (MM 4.9-18): "Prior to the commencement of any grading or construction on the site, the locations and status of three underground diesel storage tanks shall be verified." To achieve this verification, we recommend performing a geophysical survey (usually via magnetic imagery) to locate the missing tanks in consultation with historical stereo-aerial photography of the site. Abandoned USTs are a risk to public health and water resources. Please coordinate your efforts with the San José Fire Department Hazardous Materials Program (408) 277-4659 (Attention: Mr. Mike Murtiff) and the Santa Clara County Department of Environmental Health at (408) 918-3417 (Attention: Ms. Nicole Pullman) for any appropriate follow-up.

Response 9-J

This recommendation is noted and will be considered, if necessary. The removal of the tanks, if determined to be present, will be coordinated with the SJFD and the County's Department of Environmental Health, as appropriate.

Comment 9-K

Page 362, 7.3.11.2, Cumulative Impacts to Water Service: Please refer to the SCVWD's 2005 Urban Water Management Plan (UWMP), available on the SCVWD's website (www.valleywater.org). The SCVWD included demand associated with growth in the Evergreen area in its projections of water demand. Please also reference that the provision of water supply to meet new growth is based upon assumptions (listed in the UWMP) and that the funding for many long-term water supply capital investments has not been secured.

Please delete the following sentence and those sections that discuss the SCVWD's Integrated Water Resource Planning: ~~"The SCVWD is in the process of modeling their long term ability to provide groundwater to the three retailers; but their preliminary analysis suggests that they have adequate capacity to address the cumulative demand of the projects under consideration here."~~

- Response 9-K** The text has been revised, as requested. See Section 5, *Draft EIR Text Revisions*.
- Comment 9-L:** Appendix K: In Appendix B-1, Table 1, columns for the 'Original District Model' and the 'Revised District Model' should be switched around.
- Response 9-L** Correction made. See Section 5, *Draft EIR Text Revisions*.
- Comment 9-M** For our review, please include a copy of the analysis related to the development of the new storage vs. discharge curve for Lake Cunningham. Additional comments may be provided subsequent to the District's review.
- Response 9-M** In response to this comment, the City has transmitted this information to the SCVWD.

RESPONSES TO COMMENT #10: SAN JOSÉ HISTORIC LANDMARKS COMMISSION

- Comment 10-A** At the February 1, 2006 Historic Landmarks Commission meeting, the Commission discussed the Draft Environmental Impact Report for the Evergreen East Hills Vision Strategy (EEHVS) Project. The Commission expressed concern that historic preservation be highlighted as a priority in the future development within the EEHVS project area. Recent projects before the Commission have involved significant impacts to orchard properties, and there was concern that both identified and potential significant historic agricultural properties exist within the project area. In a 5-1-0 decision, Alkire absent, the Commission voted to forward this comment letter, signed by the Chair, to the Director of Planning, Building and Code Enforcement and the Planning Commission.

San José City Policies: The Landmarks Commission indicated the City policies that promote the preservation of historic resources, The San José 2020 General Plan, Urban Conservation/Preservation Major Strategy addresses the preservation of historic resources as a strategy due to the "inestimable character and interest" such resources lend to the City's image. The Discretionary Alternate Use Policy of the General Plan provides flexibility for sites with historic resources and is intended to enable preservation of the City's historic buildings. The DEIR states that future development will be subject to Historic, Archaeological, and Cultural Resources Policy #6, #7, and #8. Future Development should also be subject to Policy #1, Preservation Consideration in Development Review; Policy #2, Landmark Designation Process; Policy 03,

Historic Inventory Maintenance; Policy #4, Historic District Preservation; and Policy #5, Compatibility of New Development Adjacent to Historic Resources.

Response 10-A This comment notes that the City’s General Plan has a strategy and policies that promote the preservation of historic resources. This information is reflected in Section 3.1, which summarizes the policies and strategies of the General Plan, as well as in Section 4.5, *Cultural Resources*. The comment requests that the EIR include mention of Cultural Resources Policies 1 through 5. Those policies have been added to the text at the beginning of Section 4.5, as requested. See Section 5, *Draft EIR Text Revisions*.

Comment 10-B The City Council Policy on the Preservation of Historic Landmarks requires early public notice of projects that could harm a historic resource and strongly encourages the preservation and adaptive reuse of such resources. A comprehensive analysis should be prepared of the economic and structural feasibility of preservation, including potential funding sources.

Future development within the EEHVS project should be assumed to be consistent with these policies.

Response 10-B When it is determined that a proposed project would impact a historic landmark, the City requires that the project’s CEQA document include a discussion of the feasibility of preservation and adaptive reuse of such resources. Future development within the EEHVS area will be subject to these same requirements. It is important to note, however, that none of the EEHVS opportunity sites have this issue. See, also, Response 10-D.

Comment 10-C Cultural Resources Impacts: The EIR identifies ten historic sites within the EEHVS project area that are currently listed on the City of San José Historic Resources Inventory, including three City Landmarks and one site eligible for the National Register of Historic Places. Future development within the Evergreen East Hills Vision Strategy project area, including projects that may qualify to use the traffic trip pools, could affect currently potential historic resources unless historic preservation policies are implemented.

Response 10-C As noted on page 188 of the Draft EIR, this EIR does not provide CEQA analysis for any future development on any of the 10 historic sites. In the event future development is proposed on any of the sites containing such historic resources, that development proposal will be evaluated under CEQA.

Comment 10-D Mitigation Measures: Future development of properties within the EEHVS project area that contain historically significant resources should be assumed to

include preservation and protection of such resources consistent with definitions in the California Environmental Quality Act Guidelines. Any proposal to remove historically significant resources or any development that would result in a substantial adverse change in the significance of an historical resource as defined by California Environmental Quality Act Guidelines 15064.5(b), would result in a significant impact would not be covered by the EIR. Implementation of relevant General Plan and City Council policies, and the following mitigation measures, will reduce impacts to historic resources in the EEHVS area to a less than significant level:

- If baseline data are not available on the presence/absence and significance of historic properties more than 45 years old, present on or adjacent to specifically proposed development site at the time of any development permit request, then an evaluation of the site's historic significance will be completed. An historian/architectural historian meeting the applicable Secretary of the Interior's professional qualification standards shall evaluate the potential significance of the resources for the National and California registers as well as for local Landmark eligibility. The report should provide recommendations or mitigation options.

Cultural Resources Impacts and Mitigation Measure sections in the document should be revised to include the above language.

Response 10-D

As stated in Response 10-C, this EIR does not provide CEQA analysis for any potential future development proposal on any of the 10 sites containing historic resources. The development on the opportunity sites, which is the subject of this EIR, does not affect these resources. Therefore, there is no basis to add the requested mitigation measure to this EIR. In the event of future development on a site containing a historic resource, mitigation will be considered.

Comment 10-E

Conclusion: The Commission expressed concern that identification of historic resources at the time of development proposals has not been effective in proactively planning for preservation of significant sites, contrary to the San José 2020 General Plan Historic, Archaeological, and Cultural Resources Policy, and the City Council Policy on the Preservation of Historic Landmarks which requires early public notice of projects that could harm a historic resource and strongly encourages the preservation and adaptive reuse of such resources.

The Commission recommended the City assume that future development within the EEHVS Project area include preservation and protection of historic resources, and that mitigation measures be included to reduce impacts of the

project to identified and potential historic resources to a less than significant level.

Response 10-E Any future development in the EEHVS area - beyond that addressed in this EIR on the opportunity sites - will be subject to CEQA review and adherence to all City policies pertaining to the preservation of significant historic resources.

RESPONSES TO COMMENT #11: SAN JOSÉ PARKS & RECREATION COMMISSION

Comment 11-A The Draft Environmental Impact Report (DEIR) for the Evergreen-East Hills Vision Strategy is a very ambiguous document in the minds of the Parks and Recreation Commissioners. The ultimate project is not defined in the document and/or the list of community amenities that would be created from the new housing units. The DEIR states on page 61 that the community amenities listed may receive funding through an EEHVS financing plan. The Commission understands that the Evergreen-East Hills Task Force has yet to define or select the community amenities to be included in the final project. Therefore, should not the comment period for the DEIR be extended in order for the public to comment on the final community amenities list of improvements?

Response 11-A Section 2 of the EIR clearly describes the amount of development that would occur under each of the EEHVS scenarios. In terms of the community amenities, this comment correctly notes that the degree to which such projects would receive EEHVS-related contributions has not been determined. Funding for community amenity projects will be considered as part of the City Council's decision-making process on the EEHVS. Such funding is not, however, a CEQA issue because none of the community amenity projects are mitigation for an identified significant impact of the EEHVS on the environment. Therefore, any decision on which community amenities will be funded by the EEHVS can occur after the EIR is certified.

Comment 11-B Will the Evergreen-East Hills Project be subject to the City's Park Impact and/or Parkland Dedication Ordinances (PIO/PDO), or will this area be treated like the Evergreen Specific Plan Area, which is exempt from the PIO/PDO, and if so, should the DEIR not reflect this action?

Response 11-B As stated on page 309 of the Draft EIR, all EEHVS-related residential development shall comply with the requirements of the City's PIO and PDO ordinances. However, a separate agreement - such as the one prepared for the 1991 Evergreen Specific Plan - may be used.

Comment 11-C The DEIR states in two locations that 5 acres of land, which would otherwise be used for park/open space uses, will be reserved for school purposes. If such land is used for school purpose, how will this affect the ratio of lands going to the City for park purposes? Does a 5-acre school site meet the State's standards for elementary schools?

Response 11-C Under the PIO and PDO, real property dedicated by the applicant for a new public school will be eligible for credit equal to its square footage if the following requirements are met (1) the real property dedicated to the school district meets the requirements for dedication for neighborhood and community park purposes as specified in the San José Municipal Code¹; (2) the real property is improved with public park improvements in accordance with city's standards; and (3) the school district grants an easement to the city in a form acceptable to the city attorney which restricts the improved school property for public park and open space purposes.

Regarding the question of school site size, please see the Master Response for School Impacts & Mitigation on page 7.

Comment 11-D The DEIR states the project will increase traffic in the Evergreen and East Hills areas. Will this additional traffic hamper access to public parks in the Evergreen and East Hills areas? If so, why was this not addressed in the DEIR?

Response 11-D Section 4.2 of the Draft EIR contains an extensive analysis of the traffic impacts of the EEHVS. Table 26 on page 135 depicts the locations where the project will result in significant traffic impacts, the majority of which are located along the Capitol Expressway corridor. In practical terms, where the EIR shows increased congestion, delay and travel time will increase. This would apply to any vehicle traveling along a congested route, regardless of destination. If for example, someone were to chose to drive to a park using Capitol Expressway during a peak commute period, the trip would take longer under EEHVS Scenarios II-VI than under No Project conditions.

Comment 11-E The DEIR states the EEHVS project, if fully implemented will result in the loss of 33 acres of Prime Farmland on the Berg/IDS property and 17 acres of Farmland of Local Importance on the Evergreen Valley College property and mitigation is not proposed as part of this project for such loss. Why is this project not subject to providing mitigation for the loss of farmland?

¹Section 14.25.320 for PIO projects and Section 19.38.310 for PDO projects.

Response 11-E Based upon information received by the City subsequent to the circulation of the Draft EIR, the impact of the EEHVS on farmland will not be significant. See Section 5, *Draft EIR Text Revisions*.

Comment 11-F The DEIR states that development on the Arcadia property will result in a significant loss of burrowing owl habitat and mitigation is not proposed as part of this project. Why is project not subject to providing mitigation for the loss of burrowing owl habitat?

Response 11-F The applicant is not proposing any mitigation for the loss of burrowing owl habitat, but as stated on page 219 of the Draft EIR, the City Council could require the identified mitigation as a condition of approval, assuming the Council determines the mitigation to be feasible. See, also, Response 6-C.

RESPONSES TO COMMENT #12: MOUNT PLEASANT ELEMENTARY SCHOOL DISTRICT²

Comment 12-A General Observations: The District is concerned with the following issues raised by the DEIR: (1) The DEIR does not adequately address the need to house the students expected to be generated by this planned development. (2) The DEIR does not address the cumulative effects of planned development in the Evergreen-East Hills area as it relates to the District's need to provide facilities. (3) The DEIR fails to discuss or provide mitigation for community and recreational facilities for the students and residents of the school district.

Response 12-A For the reasons stated below in the responses to the specific comments on the EIR, the City disagrees with these general observations.

Comment 12-B The DEIR Fails To Provide Adequate School Facilities To House The Students That Will Be Generated By The Residential Development. [Section 2.1.3 Development for the Pleasant Hills Golf Course Property, pp. 38-42]:

The DEIR contains extensive discussion of the conversion of the 114-acre Pleasant Hills Golf Course to residential uses. The projections of the DEIR show up to 825 units in this area. This number of units would generate about 413 students that would attend District schools for which the District has no facilities.

²The comments received from the Mount Pleasant Elementary School District were prepared by Marilyn Cleveland, an attorney retained by the school district.

The Section goes on to state that the City contemplates reservation of a 5-acre site for a new school. (See DEIR, p. 41.) This is woefully inadequate. The District estimates that it will require a school with at least twenty (20) classrooms, a minimum of two per grade, for a kindergarten through eighth grade (K8) school. Under the requirements of the state Office of Public School Construction, the minimum acreage for a K8 school with 20 classrooms is 13.2 acres. [See attached School Site Analysis based on OPSC standards.] In addition to regular classrooms, multi-use, and administrative space, the school must have facilities to house preschool children, special education services, migrant student services, community events, and a technical center. These are the minimal amenities required for a properly sized and functional public K8 school.. Furthermore, reservation of a site does nothing to secure the funding needed for the purchase and construction of the school to serve students generated by this development.

Response 12-B

Please see the Master Response for School Impacts & Mitigation on page 7.

Comment 12-C

Section 5.3.3, Mt. Pleasant Elementary School District, pp. 305-306, Impact Analysis: The impact of student generation upon school facilities should be discussed more fully. The number of students expected to be generated by new housing based on this proposed size and rate of development should be discussed more extensively here.

The projections that KB Homes and Summerhill Homes, the developers of the land in the Project Area provided to the District reflect plans to build 461 single family dwellings, 168 garden homes (zero lot line), and 116 town homes for a total of 745 units. [The attached email from James Lindsey of KB Homes South Bay, Inc., dated March 6, 2006, provides this estimate of the number of units.] The projections in the DEIR show 540 (excluding the "no project" alternative) to 825 units, the majority of which are multi-family. All of the proposed homes presented to the District appear to be single-family units that, according to the generation rates in the DEIR, would generate substantially more children.

The District does not know the source of the generation rates stated in the DEIR. At a minimum, the DEIR should calculate the student generation based on the standard Office of Public School Construction student generation figure of .5 students per dwelling. Applying that rate to 745 units, there will be an impact of 373 students. That figure is 36 percent above even the highest scenario in the DEIR projected to be 276 students from 825 units. If 825 units were to be developed, the student generation would be 413 new, project-related students. This is a number that would fill a larger than average elementary school.

A K8 school with 20 classrooms and the appropriate auxiliary facilities is estimated to cost \$17,585,000 to construct. [See attached cost estimate for new K8 campus.] This does not include any cost for land acquisition, furthermore and equipment, or educational materials. In addition, this cost does not include the cost of escalation in construction costs which has exceeded 4 percent per year in recent years. Therefore, Table 61 is inaccurate and is valueless as a planning and mitigation impact tool.

Response 12-C

As referenced in Table 61 of the Draft EIR, the source for the student generation rate was the Mount Pleasant Elementary School District (MPESD). The EIR author sent a e-mail (7/22/05) to Superintendent George Perez requesting the student generation rates for MPESD. The following e-mail response dated 8/11/05 was received from MPESD staff member Mike Kelly: “The information that I was talking about was provided by Enrollment Projections Consultants. The numbers that I have are 0.49 for Detached and 0.30 for attached at market-rate in the Evergreen School District. It is their opinion that the SFD homes are projected to generate 0.31 students per residence (i.e. about three MPESD-enrolled students every ten homes). If for some reason the homes were offered at below market rate it would be higher.”

In preparing this response, an error was discovered in Table 61, wherein the numbers of single- and multi-family units under each scenario were reversed. This error, which has been corrected (see Section 5, *Draft EIR Text Revisions*), resulted in an underestimation of the number of students that would attend MPESD schools under the various EEHVS scenarios. The correct estimates range from a low of 248 students under Scenario II to a high of 376 students under Scenarios V and VI. The corrected numbers do not change the conclusion stated on page 306 of the Draft EIR. The conclusion, which is based upon information provided by the MPESD, is that a new school would be needed.

Regarding the last portion of the comment, which estimates the cost of constructing a new school, please refer to the Master Response for School Impacts & Mitigation on page 7.

Comment 12-D

The DEIR Fails To Address Or Mitigate The Cumulative Effect Of The Development On The District's Residents [Section 7.3.14.4, Cumulative Impacts on Schools, pp. 373-375]:

The DEIR concludes that, since it may no longer require dedication of a school site in conjunction with the planning process and because developers will have to pay school impact fees to develop the property, the impact of the project on the District is less than significant. Interestingly, it also states that these fees

only partially offset the costs of serving project-related increases in student enrollment. (See p. 375.)

We believe this conclusion is legally incorrect and not substantiated by the evidence presented in the DEIR and in this letter. Although we agree that the Legislature has deemed school impact fees to be "complete" mitigation of impacts under CEQA, the impact of the project on District school facilities is still significant. Therefore, the mitigation measures to be implemented, including voluntary mitigation measures to reduce the impact of the project to insignificance, should be included in the City's mitigation measures and mitigation monitoring plan. The failure to do so constitutes a violation of CEQA. (See Pub. Resources Code, §§ 21002.1, 21100; Title 14 Cal. Code of Ergs. § 15126.4, "CEQA Guidelines.")

The DEIR notes that the District's facilities are at full capacity at this time and that there is a need for more classroom space. However, the actual situation is that the District houses 110 more students than its designed capacity. [See Mt. Pleasant School District 2006 Developer Fee Justification Study, p.8.] The District does not agree, nor should the public it serves accept, that overcrowded classrooms are an acceptable mitigation of residential development. The DEIR should address in this section the planned residential developments within the District's boundaries, including this proposal, that will have a cumulative impact on the District through an increased student population substantially in excess of capacity.

As a small school district dependent on limited state revenue and ineligible for State bond funding to provide new facilities, the District is not in a position financially to build the necessary school facilities to house the students generated by this large project.

The proposed mitigation measure - MM 5.3-1 - that is premised on compliance with state law in regard to payment of school impact fees is not by any estimation sufficient mitigation of the actual impact of this Project.

Response 12-D

As stated on page 373 of the Draft EIR, the EEHVS is the only substantial project being considered within the Mount Pleasant School District. Therefore, by definition, there would be no significant cumulative impact to the Mount Pleasant School District from proposed development

This comment states "that the District houses 110 more students than its designed capacity." This situation is part of the existing setting, which is the baseline against which the impacts of the project are quantified. Irrespective of

whether the District is “at” or “110 students above” capacity, the conclusion of the Draft EIR remains the same: the “development of the Pleasant Hills Golf Course property would necessitate the construction of a new school.” (Draft EIR, page 306).

For the reasons described in the Master Response for School Impacts & Mitigation (see page 7), the payment of school impact fees is full mitigation under CEQA.

Comment 12-E

The DEIR Fails To Provide Adequate Community And Recreational Facilities To Serve The District's Residents [Sections 1.5.2 and 2.2, Distribution of Community Amenities Project, p. 26]:

While these sections describe a number of community amenities planned for the larger project area, very few of those amenities are planned for the Mt. Pleasant School District area. (pp. 12-27.) In fact, only 8.2 acres at the Pleasant Hills Golf Course Area are identified as future parkland (Section 5.4 Parks and Recreation) with no discussion of actual recreational facilities on the site. In fact, we understand that five acres of that area constitutes the proposed school. This would leave, at best, only about two acres of parkland along with a walking trail.

The DEIR lists the following "community amenities" that appear to be within the District:

- (1) Section 2.2.12 Sports and Recreational Facilities at Schools, p. 69,
- (2) Section 2.2.14 Recreational Improvements at Boeger/Foothill Schools & Fernish Park, p. 70, and
- (3) Section 2.2.28 Renovation of Mt. Pleasant Park, p. 75.

However, none of these are listed as confirmed mitigation measures. It is vaguely stated that they will be provided by developers, a community financing district, some other unstated source, or a combination of these sources. The multipurpose gymnasium at Boeger School is already impacted, as are the District's fields at Fernish Park. As noted above, the District has no resources to assist in providing, expanding or improving these types of facilities in light of the fact that it does not even have sufficient financial resources to build classrooms. These facilities should be described in greater detail in the project description and their impacts should be addressed in this DEIR, rather than

leaving the public with the implication that the project will include recreational facilities that are neither described nor evaluated in the DEIR.

The planned new development addressed in this DEIR should provide the impacted communities recreation facilities and other community services, including the children of the Mt. Pleasant School District community and their families. The impacts of overcrowding of existing community and recreational facilities should be addressed in the DEIR.

Response 12-E

Table 9 of the Draft EIR indicates that approximately 21 acres of the 114-acre Pleasant Hills Golf Course property would be used for public park and private open space uses on the site. Of this total, five acres would be reserved for possible acquisition by the MPESD for a new school.

As stated on page 309 of the Draft EIR, all residential development will comply with the requirements of the City's PIO and PDO ordinances, such ordinances adopted by the City Council to ensure that development offsets the increased costs of providing additional park facilities to serve new residential development. As also stated on page 309 of the Draft EIR, as well as in Response 11-C, above, park acreage required under the PIO and PDO ordinances can be reduced by the costs of park improvements to lands provided by the developer, the provision of private recreational facilities, and/or dedicating recreational lands to school districts.

The community amenity projects listed in Section 2.2 of the Draft EIR are not mitigation measures for any significant impacts of the EEHVS. The Draft EIR does not mislead the reader regarding these facilities, as evidenced by the following text excerpted from page 61: "These projects, which are listed in Table 15 and depicted on Figure 14, represent those improvements that *may* receive funding through an EEHVS financing plan. The percentage of each project's total cost that would be funded through the EEHVS financing program has not been determined; EEHVS-related contributions will vary and could range from no funding to full funding".

Comment 12-F

Conclusion: For the foregoing reasons, we believe the DEIR has failed to meet the requirements of CEQA in that it has not properly considered the impacts of the project on the sufficiency of the school facilities needed to provide education. Furthermore, the DEIR fails to discuss and seek mitigation for community and recreational facilities for the students and residents of the Mt. Pleasant School District.

Response 12-F For the reasons described in the above responses, as well as in the Master Response for School Impacts & Mitigation (see page 7), the City disagrees with the assertion that the Draft EIR fails to comply with CEQA. Furthermore, under the PIO and PDO ordinances, development proposed as part of the EEHVS is not required to mitigate any existing shortfall in providing community and recreational facilities for the existing students and residents of the Mt. Pleasant School District.

RESPONSES TO COMMENT #13: SAN JOSÉ/EVERGREEN COMMUNITY COLLEGE DISTRICT

Comment 13-A Section 4, entitled "Environmental Setting, Impacts and Mitigation" states, at subsection 4.1.2.3 (Draft EIR p. 107), that "[a] 17-acre portion of the Evergreen Valley College property is designated as Farmland of Local Importance" on the Santa Clara County Important Farmlands 2004 map, and identifies certain mitigations that might be required. We believe that the designation of this portion of the College (the "Site") is in error, and that no mitigations should be imposed.

The Site was originally acquired by the District as a part of the College, and was intended to be developed by the District for College use. The Site was never developed, however, and over the past 5 to 6 years, the Site has been used at times by the District for overflow parking purposes. Given the District's current projections and estimates for student growth, and as the part of the College in which the Site is located (the "Surplus Land") is surrounded by development and is thus suited for development, the District has determined that the Surplus Land, including the Site, could better serve the needs of the District by being developed for housing, retail and office uses, thus generating revenues for the District that would not otherwise be available. The District's Board of Trustees voted in 2004 to declare that the Surplus Land was not needed for educational purposes in order to develop the Surplus Land for these other purposes, and is now entertaining development proposals.

The Guide to the Farmland Mapping and Monitoring Program (Appendix B: Mapping Criteria and Soil Taxonomy Terms) states that the designation of Farmland of Local Importance does not apply to publicly-owned lands for which there is an adopted policy preventing agricultural use. Given that the Site is publicly-owned and that the District's Board of Trustees has adopted the policy that the Surplus Land, including the Site, be used for development purposes, the Site should not be designated as Farmland of Local Importance. Thus, the

designation of the Site as Farmland of Local Importance is in error, and no agricultural land mitigations should be required for its proposed use.

Based on the foregoing, the District requests that the Draft EIR be modified to reflect the fact that the Site should not be designated as Farmland of Local Importance and that no agricultural land mitigations should be required for its proposed use. Thank you for your attention to this matter.

Response 13-A Based on the information provided by the District, and based upon the criteria set forth in Appendix B of the California Farmland Mapping & Monitoring Program, the subject 17-acre portion of the Evergreen Valley College property should not be designated as Farmland of Local Importance. The EIR text has been revised accordingly. See Section 5, *Draft EIR Text Revisions*

RESPONSES TO COMMENT #14: EAST VALLEY/680 NAC

Comment 14-A The East Valley /680 NAC is made up of eight neighborhood associations in East San José. We support the Evergreen/East Hills Vision Strategy, but we need you to address our concerns listed below.

We have serious concerns about the increased traffic on Capital Expressway, White Road, Story Road, Ocala Avenue, and Tully Road. All of these streets are in our NAC community. These are already heavily traveled streets. Traffic on these roads is already gridlocked at certain times of day and on weekends.

Response 14-A This comment correctly notes that, as described in Section 4.2 of the Draft EIR, the EEHVS will increase traffic on these streets. This increase in traffic is one of the factors the City Council will consider as part of its decision-making process on the EEHVS.

Comment 14-B We are concerned about the Light Rail service on Capital Expressway to Eastridge Shopping Center. LRT is several years away from being implemented and will have a big effect on traffic crossing Capital Expressway. Two lanes of the expressway will be lost to light rail, leaving less roadway for cars to travel on. The trains will be overhead crossing Story Road and Tully Road, but will be at ground level at Ocala causing traffic to stop each time a train is approaching from either direction. This will cause many delays in traffic. Ocala is now used as an alternative to heavily traveled Story and Tully Roads. Even if Light Rail is never built on Capitol Expressway, there will still be traffic problems, only much worse than now.

- Response 14-B** The effect of the LRT on traffic operations along Capitol Expressway was quantified by the VTA in an EIR that was completed in 2005. The planned extension of LRT to Nieman Boulevard was also assumed under Scenario I (No Project/Background Conditions) in Section 4.2 of the Draft EIR.
- Comment 14-C** Eliminating the traffic signal at Cunningham Avenue would help the flow of traffic on Capitol Expressway. Traffic to Reid-Hillview Airport should enter and exit from existing access roads at Ocala and Tully. Originally Cunningham was a thru street from King Road to White Road. If RHV Airport were moved to another location this street could be re-opened to relieve some of the traffic on Tully and on Ocala.
- Response 14-C** Irrespective of whether access to Reid-Hillview Airport could be modified, eliminating this traffic signal would create substantial problems for access to/from the land uses that are served by the portion of Cunningham Avenue east of Capitol Expressway.
- Comment 14-D** Soundwalls along Capital Expressway all the way from 680 to Ocala has been #4 on the East Valley/680 NAC top 10 projects since the beginning several years ago. The people who live next to the expressway need privacy and less noise. Even better would be building soundwalls all the way along Capitol Expressway from 680 to 101 regardless of whether Light Rail is ever built or not.
- Response 14-D** The views of the East Valley/680 NAC regarding the desirability of soundwalls along Capitol Expressway are noted for the record. Soundwalls would not, however, be required as mitigation under any of the EEHVS scenarios, because EEHVS-generated traffic would not result in a significant increase in noise along Capitol Expressway.
- Comment 14-E** We need to take a hard look at Reid-Hillview Airport and its effect on the Evergreen/East Hills Vision. This entity has not been considered at all in the vision statement. A vision statement needs to look at the value or absence of value of having a general service airport in the middle of our residential community. We have seen its effects in many ways. It limited the size of Eastridge Shopping Center. It is affecting the development of the Arcadia property. It has cost the East Valley/680 community the loss of a \$1,600,000.00 grant to improve the Hank Lopez Community Center. And it has caused the Hillview Library to build the new library building on the grounds of Fischer Middle School which removed valuable playing fields from use by the local children and students. We also have to put up with lots of noise and lead pollution in the air from aircraft overhead. If more residential units are built as planned, thousands more residents will be exposed to the lead poisoning from

RHV aircraft flying overhead. (www.reidhillview.com/#9) Is this in the best interests of our society?

Response 14-E

The issue of whether or not Reid-Hillview Airport should remain at its current location is unrelated to the EEHVS or to the City Council's objectives for EEHVS that are listed in Section 1.4 of the Draft EIR. In addition, the City has no jurisdiction over Reid-Hillview; the airport is owned and operated by the County of Santa Clara, Roads & Airports Department.

As a point of information, in 1996, after completion of numerous technical and safety studies, including an EIR that evaluated alternative land uses for the airport property, the Santa Clara County Board of Supervisors voted to keep Reid-Hillview open.

In 2005, the California Air Resources Board published its *Air Quality and Land Use Handbook: A Community Health Perspective*. The Handbook contains a list of facilities that emit various toxic substances into the air, and based on recent health studies, recommends setbacks from such facilities for sensitive land uses (e.g., residences, schools, nursing homes, etc.). The list of facilities for which setbacks are recommended includes freeways, rail yards, ports, refineries, chrome-plating plants, dry cleaners, and gasoline dispensing sites. No setbacks from airports are recommended. The *California Airport Land Use Planning Handbook* (2002) also contains no air quality-based setback criteria. Further, the Santa Clara County Airport Land Use Commission has approved land use concept for the Arcadia property. Based on all of these facts, there is no evidence to indicate that the construction of additional housing in the general vicinity of Reid-Hillview Airport will result in significant impacts associated with lead poisoning.

Comment 14-F

If and when a plane needs to make an emergency or crash landing, the only open spaces left are our parks, school grounds, or our streets and roads. This is a serious matter which needs to be considered in the Environmental Report.

Response 14-F

Draft EIR Section 4.1, *Land Use*, describes and depicts the adopted safety zones around Reid-Hillview Airport. The discussion includes an analysis of the compatibility of the EEHVS with the criteria that are applicable to allowable uses within the safety zones. The analysis concludes that the proposed EEHVS is compatible with Reid-Hillview Airport. As stated on page 95 of the Draft EIR, at its meeting of 11/16/2005, the Santa Clara County Airports Land Use Commission (ALUC) determined that the EEHVS is consistent with its adopted Land Use Plan.

- Comment 14-G** Santa Clara County is currently in the processing a generating a new 20 year master plan for Reid-Hillview Airport. Some of the proposals may affect the Evergreen/East Hills Vision Strategy project, such as quality of life issues, business plans, reduced property values, and added noise and lead pollution.
- Response 14-G** At the point in the planning process where the County develops alternative(s) for a new master plan, analysis of the alternative(s) under CEQA will be required. Such analysis would include an evaluation of the effects of the alternative(s) on the land uses located in the environs of Reid-Hillview.
- Comment 14-H** If 540-825 residential units are built on the Pleasant Hills Golf Course site, this would probably mean 2,000 more cars. If 1,500-2,025 more residential units are built on the Arcadia site; there would probably be an additional 3,000-4,000 more cars on our already overcrowded streets. Where will they all go??
- Response 14-H** Draft EIR Appendix E (see page 50) lists the amount of traffic (both daily and peak-hour) that would be generated by housing on the Arcadia and Pleasant Hills Golf Course properties, respectively. Draft EIR Appendix E (beginning on page 54) describes and illustrates the projected distribution of EEHVS-generated traffic onto the roadway network.

**RESPONSES TO COMMENT #15:
ANDY AGANAD**

- Comment 15-A** Mr. Baty, I echo all the sentiments of other Evergreen residents made to this point. The high density housing will exacerbate any traffic and noise problems we have in that area. The high density housing is not in line with other housing in the area. I can foresee the eventual deterioration of these high density units into rundown unkempt units in an area that people won't find safe to walk in anymore. They are not why we all moved into the Evergreen area in the first place. I for one would like the peace and quiet and spaciousness of the EVC development area preserved.
- Response 15-A** This comment states an opinion regarding the proposed development on the Evergreen Valley College property. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.
- Comment 15-B** My concern is with all these recommendations for road and park improvements, when will they all happen?

Response 15-B The proposed revised version of the EDP (see Appendix B of the Draft EIR) sets forth the proposed phasing of the transportation improvements. The goal of the phasing of these improvements is to link the timing for construction of new development with the availability of additional roadway capacity. The City intends to utilize a similar approach for the community amenity projects.

Comment 15-C Personally, I am still waiting for Falls Creek Park to get approved for construction. It has been just a pile of dirt for perhaps 5 years now and the last house surrounding it was completed over 3 years ago. What can we do to speed up this project? It is such a simple one. I would be happy if it was done in phases like Fowler Park, just to get something in there; perhaps the concrete at least.

Response 15-C As stated in the Draft EIR, the development of Falls Creek Park has been identified as one of the community amenity projects that may receive EEHVS funding. On March 28, 2006, the City Council approved the Master Plan for the development of Falls Creek Park. The City's proposed 2006/07 Capital Budget provides funds to prepare the construction documents and begin construction of the park. If bids are favorable, the park could be completed by June 2008.

RESPONSES TO COMMENT #16: SYLVIA ALVAREZ

Comment 16-A The five acres set aside for a school in Evergreen School District is not sufficient to accommodate structures, playground, and field for children. Education code sets out 10 acres to accommodate 780 to 899 students. Middle School Chaboya is already exceeding capacity and new school would have to be a K-8 school so land available needs to be increased to 25 acres. Middle schools under Education Code require 25 acres. The District realizes land availability at current cost would require we consider a K-8 school to accommodate elementary and middle school needs.

We also have a history of multi-families living in single-family housing which has impacted the ability to serve families. Example, Matsumoto is designed to serve 780 students, but because of multi-families living in single-family housing, we are at 950 students. All students reside within boundary of school. Carolyn Clark School is at level of service, but already shows signs that it will be over enrolled. So, 5-acre parcels to accommodate 780 students at best still not sufficient. But, in reality, because of cost of housing, more than one family purchases housing which produces more children.

Response 16-A Please see the Master Response for School Impacts & Mitigation on page 7. The student generation rates used in the Draft EIR were provided to the City by each school district.

**RESPONSES TO COMMENT #17:
CAROL ASHMAN**

Comment 17-A When the EIR says "Additional right-of-way will be required," does that mean that existing homes will be removed? I saw this on the discussion to widen Marten east of White Road.

Response 17-A No homes will be removed. As noted in Table 16 (page 64) of the Draft EIR, the additional right-of-way needed to improve the White/Ocala/Marten intersection would consist of an approximately 6-foot strip of land that would partially impact some existing landscaping.

Comment 17-B The intersection of Flint Ave & Marten is a very busy, dangerous intersection. It will be significantly impacted by the Golf Course development. But it was not included in the EIR at all. Why not? Can it be included?

Response 17-B As stated in Section 2.2.6 (page 67) of the Draft EIR, this intersection is proposed to be signalized as part of the EEHVS.

Comment 17-C When the EIR concludes at the end of an issue, "Significant Unavoidable Impact" does that halt the development of an area? Do the number of times this is noted, or the percentage of this conclusion within the total number of conclusions, halt the development of an area?

Response 17-C A project that has one or more significant unavoidable impacts can be approved. In such cases, however, the decision-making body must adopt a "Statement of Overriding Considerations." In that document, the decision-makers must state the reason(s) that support their approval of such a project, as well as state the reason(s) why they are rejecting any alternative that avoids such impacts. This is consistent with the intent of CEQA, which "requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project." (CEQA Guideline §15093)

Comment 17-D What must be in the EIR to halt the development of an area? Or can an adverse EIR ever halt the development of an area?

Response 17-D CEQA requires that decision-makers take the information contained in an EIR into account when determining whether to approve a project. Depending upon the specifics of each project, such information may result in 1) project approval, 2) project modification, or 3) project denial. There are literally thousands of examples of projects that fall into each of these three categories. Again, the requirement is that decision-makers must balance numerous factors.

**RESPONSES TO COMMENT #18:
SANJAY & ARCHANA BALDWA**

Comment 18-A We have been living in the Evergreen area for last 12 years. While new housing continues to come up unabated, hardly any traffic improvements have been made. We see excuses and inability to do anything about traffic in the Evergreen area leading to 101. Now we hear that there is plan to put about 5,700 more houses. Doesn't this sound preposterous? If you can't fix the problems, please don't make it worse. We have elected you to take care of problems in our neighborhood. Feel free to call us for action if you don't have support but don't just give in.

Response 18-A As stated on page 11 of the Draft EIR, an objective of the proposed EEHVS is to “maintain the delicate balance of the ‘three legged stool’ between new development, transportation improvements, and community amenities.” As such, the project includes numerous roadway improvements, all of which are summarized in Table 14 of the Draft EIR. These roadway improvements, as well as many other factors, will be considered by the City Council as part of its decision-making process on the EEHVS

**RESPONSES TO COMMENT #19:
BERG & BERG ENTERPRISES, INC.**

Comment 19-A EIR page 304, footnote 105, references a requirement of 25 acres would be required for a K thru grade 8 school site. The above note infers that a 25 acre elementary school site would be required based on a conversation with JE Crawford. However, we question the footnote as it appears that this statement was made without consultation with one of the Evergreen Visioning Task Force members, Mr. Tom Andrade Superintendent of Evergreen Elementary School District, who set in on the task force from summer of 2003 until the formation of the new task force in summer of 2005. During this time period Mr. Andrade stated that a 5 acre site for the school structures and a 5 acre open space joint use physical activities area would be all the area required for an elementary school

if the school district desired to place a school on the Berg/IDS/Legacy properties. Hence a 5 acre school site area with an adjacent joint use 5 acre physical activities area has been reserved.

- Response 19-A** Level of Service Policy #25 in the San José General Plan states that “the City and school districts should cooperate in the joint planning, development, and use of public school facilities combined with other public facilities and services.” This policy has led to the development of joint/shared-use recreational facilities, such as that described in this comment. For more discussion on the subject of school site acreage, please see the Master Response for School Impacts & Mitigation on page 7.
- Comment 19-B** EIR page 291, 292, references requirements for passive solar designs, cool roofs, photovoltaic systems and geothermal heat pumps. To date in the San José and greater Bay Area, the above requirements have not had common market acceptance nor sufficient market demand due to the higher additional initial and future maintenance and replacement costs combined with an extremely long payout term. This project is already carrying an inordinate additional infrastructure and additional amenity costs which precludes these stated requirements from being economically and practically feasible at this time. These requirements are not economically feasible due to an estimated payback of as much as 24 years or more.
- Response 19-B** This comment regarding the practicality and costs associated with passive solar designs, cool roofs, photovoltaic systems, and geothermal heat pumps is noted for the record. It will be considered by the City Council as part of its decision-making process on the EEHVS.
- Comment 19-C** EIR page 233, MM 4.7-4 references requiring a design level soil engineering investigation being required prior to the issuance of a public works clearance and PD permit. The design level soil engineering investigation should be required at time of grading permit issuance which would be subsequent to the PD Permit and should not be required for issuance of a PD permit.
- Response 19-C** The language of MM 4.7-4 has been revised to indicate that the investigation is required prior to the issuance of a Geologic Hazard Clearance. See Section 5, *Draft EIR Text Revisions*.
- Comment 19-D** EIR page 221, MM 4.6.4.3, Tree replacement ratios references, table 48: The replacement ratios appear to be in excess of current City policy for tree replacement. The replacement ratio should not be more than current policy.

Response 19-D The City has revised its tree replacement ratios. See Section 5, *Draft EIR Text Revisions*.

**RESPONSES TO COMMENT #20:
PETE CASTONGUAY**

Comment 20-A Why such high density housing for the golf course?

Response 20-A A range of densities is being considered. As stated on page 38 of the Draft EIR, depending on the scenario, densities would range from medium low (8 dwelling units per acre) to medium high (12-25 dwelling units per acre).

Comment 20-B How are you going to handle the 1,600 extra cars in this area - excessive traffic - White/Tully?

Response 20-B The intersection of Tully/White presently operates at LOS D during the AM and PM peak-hours. The LOS would remain at D under all EEHVS scenarios, as shown in Tables 13-17 of Draft EIR Appendix E. Thus, the impact of the EEHVS at this intersection would not be significant.

Comment 20-C What are you going to do about the wild animals on the golf course?

Response 20-C According to the biological study (see Appendix H of the Draft EIR), the site is used by squirrels, gophers, jackrabbits, mice, and a variety of bird species, all of which are common in an urban environment. These birds and animals would be displaced from those areas where vegetation will be removed and would utilize vegetation on other nearby sites such as Lake Cunningham Park.

Comment 20-D How does townhouses and rental units match the surrounding area?

Response 20-D The Evergreen • East Hills area contains a wide variety of housing types and densities, some of which are owner-occupied and some of which are rented. The townhomes that are proposed for the Pleasant Hills Golf Course property would be located in the interior of the site and along White Road. Single-family homes would be constructed along the northern and eastern boundaries of the site to reflect the adjacent single-family neighborhoods, as shown on Figure 8 of the Draft EIR.

Comment 20-E What about the wetlands on the golf course? Where will the water go?

Response 20-E	As stated on page 205 of the Draft EIR, the wetlands on the golf course property are very small. These wetlands do not store a substantial volume of water and, therefore, the loss of the wetlands would not create a problem in terms of displaced water.
Comment 20-F	How will the “new” golf course impact the City sewer, water, and electricity at their main plants, not around the golf course?
Response 20-F	Impacts to utilities are quantified and described in detail in Section 4.11, <i>Utilities & Urban Services</i> , of the Draft EIR.
Comment 20-G	Will the section of Tully between White and Capitol be improved? Too many accidents & vehicle deaths!
Response 20-G	There is no evidence that would indicate that Tully Road between Capitol Expressway and White Road is unsafe. No improvements to this segment of Tully Road are proposed. The project will, however, implement the following improvements to the Tully/White intersection: 1) a second left-turn lane will be added to each of the four approaches to the intersection, 2) a third southbound thru lane will be added, 3) a third northbound thru lane will be added, and 4) a third eastbound thru lane will be added.
Comment 20-H	What about intersection impact for Tully & White?
Response 20-H	As stated in Response 20-B, this intersection will not be significantly impacted by the project. Project-sponsored improvements to this intersection will, however, occur; see Response 20-G.
Comment 20-I	Do any members of the EIR task force live in the golf course area?
Response 20-I	The City is aware of at least one EEHVS Task Force member (Ike White) who resides near the golf course site. For a list of all EEHVS Task Force members, please go to www.sanjoseca.gov/planning/evergreen/roster.asp .
Comment 20-J	Besides excessive - what about the airborne dust created by the construction?
Response 20-J	The impacts associated with dust generated during construction are described on page 183 of the Draft EIR. Mitigation measures for this impact are listed on pages 184-185 of the Draft EIR.
Comment 20-K	Construction in the golf course will chase rats (etc.) into residential areas.

Response 20-K Please see Response 32-D, below.

**RESPONSES TO COMMENT #21:
REBECCA CHINN**

Comment 21-A I live directly across from the Evergreen Valley College property. I'm very concerned about several items stated in the EIR. The proposal for high density housing development at Evergreen Valley College will have a negative impact on the people who are living in the neighborhood.

Response 21-A This comment states an opinion that the proposed development on the Evergreen Valley College property will negatively impact the adjacent neighborhood. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 21-B The proposal to redo the current high school boundaries is unacceptable. Evergreen Valley High School is already over capacity. You must know that the issue of school boundaries is a hot topic. Are we expected to send our children to inferior schools far away from home?

Response 21-B This comment states an opinion regarding the potential adjustment of high school attendance boundaries by the ESUHSD. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 21-C The proposed 6-story buildings at EVC will be unsightly and additional residents will cause increased traffic congestion on San Felipe Rd/Yerba Buena Rd. and 101 on ramps and off ramps.

Response 21-C As a point of clarification, the heights of buildings proposed on the Evergreen Valley College property would not exceed four stories. Please see Figure 12 of the Draft EIR.

The project will increase the number of vehicles using the San Felipe Road/Yerba Buena Road intersection. The project will, however, construct the following improvements at that intersection: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added, 2)

a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added, 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended.

The project will increase the number of vehicles using the U.S. 101 on- and off-ramps in the area. The project will, however, construct ramp improvements at 101/Tully Road, 101/Capitol Expressway, and 101/Yerba Buena Road; see Section 2.2.1 of the Draft EIR for details.

Comment 21-D Our household commutes to Mountain View via 101 everyday. The stretch of freeway on SB 101 from Tully Road to Capitol Expressway is almost to the unbearable limit. Please seriously consider the concerns of the Evergreen residents who endure the commute so that we can come home to the beautiful neighborhood surrounding EVC.

Response 21-D The EEHVS does include substantial improvements on southbound U.S. 101 between Story Road and Yerba Buena Road. See page 61 of the Draft EIR for details regarding the proposed improvements. The comment requesting consideration of the commutes experienced by Evergreen residents is noted.

RESPONSES TO COMMENT #22: ALAN COVINGTON

Comment 22-A The DEIR seems to favor Scenario V, both by including development drawings only for this scenario and by lumping Scenarios II through VI together in some of the discussions even though there is a wide range of housing densities in the scenarios. Since an objective of the DEIR is to provide balanced and impartial information on the impact of each scenario plan, and to identify which scenarios create the least environmental impacts, at least one other scenario of the lower end of the density range (besides the "No Project") should be equally documented and discussed to furnish a balanced view.

Response 22-A The EIR quantifies the impacts of each EEHVS scenario in terms of traffic, noise, air quality, utilities, energy, schools, libraries, and parks. For certain impact categories where the effects of the scenarios are essentially the same (e.g., cultural resources and geology), there are not separate discussions for each scenario so as to avoid lengthy repetition of the same text. The conceptual site plans for Scenario V were developed by the owners of the opportunity sites and were included in the Draft EIR for illustration only.

In addition to the six EEHVS scenarios, the Draft EIR evaluated a “Reduced-Scale Alternative” in Section 6. This alternative was defined as 600 residential units, because 600 units approximates the level of development that could occur without resulting in significant traffic impacts.

Comment 22-B

In the DEIR Summary, Section E, Areas of Controversy, states that the primary issues raised have been traffic-related. Other, equally stressed issues have been raised and should be acknowledged: 1) New development units' interface and compatibility with existing development and communities; 2) Allowing height limits of 60 feet on the Arcadia and Evergreen College sites, and the visual impacts on adjacent housing; 3) Whether to retain existing Campus Industrial zoning on the Legacy and Berg/IDS sites; 4) Additional noise created by commercial and higher density residential development near existing communities; 5) Loss of open space and recreational activities (PHGC); 6) Competition for City resources that will be needed to support further residential and commercial development; and 7) Actual traffic improvements and community amenities that ultimately will result from future development and what alternate mechanisms and resources will be available in the long term.

Response 22-B

Based upon this comment, as well as other comments received on the Draft EIR, this discussion has been expanded. See Section 5, *Draft EIR Text Revisions*.

Comment 22-C

The discussion of Alternatives (Section 6) should also identify the most environmentally superior alternative chosen from Scenarios II through VI, since this will help differentiate impact when deciding the weights to apply to each alternative. DEIR Summary Table S-4 (p. S-13) identifies Significant and Less-Than-Significant impacts but does not help to distinguish relative differences between scenarios.

Response 22-C

As a *general* rule of thumb, all other factors being equal, as the amount of development decreases, so does the magnitude of various environmental impacts. Therefore, for example, the relative level of traffic impacts under Scenario II (3,600 dwelling units) would be less than under Scenario V (5,700 dwelling units).

There are, however, other factors that complicate this exercise. For example, while Scenario VI is a more intense development project than Scenario II, Scenario VI has an environmental “benefit” over Scenario II because it preserves 10, 383 future jobs in Evergreen. Similarly, while Scenario VI generates a relatively large amount of traffic, because it locates jobs near housing, regional traffic impacts are somewhat reduced because of “trip internalization,” a phenomenon explained on page 131 of the Draft EIR.

- Comment 22-D** Scenario VI, accounts for the impact of retaining all industrial lands on the Berg/IDS and Legacy properties and the maximum build-out of all remaining properties. Given the extreme range in unit count from Scenario II (3,600 units including the "pool" sites) to Scenario V (5,700 units), an additional scenario should be studied for the impact of retaining all industrial lands on the Berg/IDS and Legacy properties and the minimum build-out of all remaining properties. This would result in only 2,650 units being built in total, a significant difference (a 53.5% reduction) from the 5,700 units proposed in Scenario V.
- Response 22-D** As stated on page 28 of the Draft EIR, "the intent of fully evaluating six development scenarios in this EIR is to provide information as to the environmental effects of a reasonable range of alternatives pertaining to land use types and densities for the EDP area. While it is recognized that there are multiple variations for each of these alternatives, an EIR is not required to address such variations."
- During its decision-making process, the City Council could decide to approve a level of development that is similar to that suggested in this comment. The EIR provides the Council with the flexibility to make such a decision, with the only caveat being that the Council could not approve a project where environmental impacts would be *greater* or *substantially different from* that disclosed in the EIR.
- Comment 22-E** The EIR should explain how it accounts for a potential shift of industrial land "retention" from the current Berg/IDS and Legacy properties to any of the other opportunity sites in order to save job creating development opportunities.
- Response 22-E** There are no proposals to designate the Arcadia, Pleasant Hills Golf Course, and/or Evergreen Valley College properties for *Campus Industrial* uses.
- Comment 22-F** For the impacts where Mitigation Avoidance Measures are stated as; "Unless Mitigation is Determined to be Feasible and Made a Condition of Approval, Impact will be Significant and Unavoidable", a mitigation determination should be made, and where determined, should be made a condition of approval. According to the table in the EIR Summary, section B (starting page S-5), these categories include: Land Use, Biological Resources, and Energy.
- Response 22-F** The City Council will make the determination of "feasibility" for these mitigation measures. Under CEQA, feasible means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (CEQA Guidelines §15364) If the Council determines the mitigation to be

feasible, then the project cannot be approved unless the mitigation is made a condition of approval.

Comment 22-G Traffic: Some of the highest traffic impacts will depend on whether Light Rail Transit (LRT) will be extended to Eastridge/Nieman stations in the foreseeable future. The traffic analyses provided in this DEIR should study and document impacts both with and without further construction of LRT along Capital Expressway within the next 15-25 years. The DEIR will be incomplete without including ALL plausible outcomes since the impact on District 8 from LRT extension will be so severe on traffic and decisions on development of the Arcadia Transit Oriented Development (TOD) site.

Response 22-G The EIR analyzes traffic impacts under the assumption that the approved LRT extension to Nieman Boulevard is in place. From a traffic perspective, this is a “worst-case” scenario because the LRT project will remove one lane in each direction on Capitol Expressway between Nieman Boulevard and I-680. Further, to be conservative, no diversion of auto trips to LRT is assumed. Therefore, if for some reason the LRT extension is delayed or abandoned, traffic impacts would be *reduced*, compared to that shown in the EIR.

See also the comments from, and responses to, the VTA (Comment #8).

Comment 22-H It is stated under the Transportation and Traffic Section 4.3.1.1, Existing Roadway Network, Major Collectors (p. 119) that it is proposed to reduce Quimby Road east of White Road and to reduce Murillo Avenue between Tully Road and Aborn Road from 4 lanes to 2 lanes. Some of these recommendations are in conflict with the Evergreen Specific Plan EIR and current Evergreen Development Policy. In the case of Quimby Road, this directly contradicts the statement on the previous page (p. 118) that Quimby Road is considered a major arterial from Tully Road to Murillo Avenue. This would have a very adverse impact on traffic in this area and does not make sense. Also, reducing the traffic capacity of Murillo Avenue between Tully and Aborn Roads when the Berg/IDS and Legacy sites are developed for housing or industrial use would limit traffic flow out of that area and severely curtail the option of using either Tully, Aborn or Yerba Buena Roads as traffic relief in case of congestion or accidents.

Response 22-H Based upon further analysis, the City is dropping the proposed reduction of lanes on Quimby Road, east of White Road. See Section 5, *Draft EIR Text Revisions*.

The City has reviewed projected traffic volumes on Murillo Avenue between Tully Road and Aborn Road, both with and without the EEHVS. The projected

volumes do not warrant a 4-lane roadway between Tully & Aborn Roads because most of the traffic demand is in the east-west direction.

Comment 22-I The current Evergreen Development Policy (EDP) requires all proposed development maintain a LOS 'D' or better for the target area. The Evergreen Specific Plan (ESP) EIR required conformance to the EDP. However, now that the ESP is almost built out, it is well documented that the EDP has been violated. How does this impact the traffic studies for the proposed scenarios? Given conformance to the EDP was required for all subsequent developments, how could it have happened that there are a number of intersections with a LOS 'E' and 'F'? How does this EIR assure traffic count accuracy, and condition future development to insure conformance to the study requirements?

Response 22-I The original and existing versions of the EDP, which are summarized on pages 7-8 of the Draft EIR, utilize the concept of *average* LOS 'D' for Evergreen. As shown in Table 22 of the Draft EIR, there are only three intersections within the boundary of the EDP that currently operate below LOS 'D': Capitol Expressway at Silver Creek Road, Capitol Expressway at Story Road, and Capitol Expressway at Quimby Road. All other intersections operate at LOS 'D' or better under existing conditions. Based on these data, the City believes that compliance with the existing EDP has been maintained.

The proposed revision to the EDP (Appendix B of the Draft EIR) lists those traffic improvements that will be implemented prior to each phase of development. The City will not issue final approvals (e.g., building permits) until these and other conditions of development are met. This is a common method used by many jurisdictions to ensure that various regulatory requirements, mitigation measures, etc. are implemented.

Comment 22-J Given the unique circumstances regarding traffic problems that exist in the Project area (especially Tully Road, Quimby Road, Aborn Road and Capitol Expressway), all traffic studies should include weekends (Saturdays and Sundays) from 10:00 AM to 8:00 PM and weeknights from 4:00 PM to 8:00 PM.

Response 22-J During February and March 2006, weekend traffic counts were conducted at key signalized intersections in the Evergreen • East Hills area. The intersections selected were those near significant retail development and those that are particularly busy on weekends. Based on the counts, peak weekend levels of service were compared to those occurring during weekday peaks. The table below shows that the intersections operate at comparable levels of service during the work week and on weekends.

COMPARISON OF WEEKDAY AND WEEKEND PEAK OPERATIONS						
Intersection	Weekday				Weekend	
	AM Peak		PM Peak		Saturday Peak	
	Delay	LOS	Delay	LOS	Delay	LOS
King Road/Story Road	43.8	D	47.3	D	48.6	D
Capitol Expressway/Story Road	60.0	E	54.9	D	54.6	D
White Road/Story Road	43.7	D	46.0	D	43.0	D
Tully Road/Alvin Way	32.7	C	44.1	D	43.4	D
Tully Road/King Road	38.9	D	48.6	D	49.2	D
Tully Road/Quimby Road	34.4	C	45.1	D	46.0	D
Capitol Expressway/Tully Road	40.3	D	41.5	D	43.1	D
Capitol Expressway/Quimby Road	42.8	D	57.0	E	52.0	D
White Road/Quimby Road	37.3	D	40.2	D	39.4	D
Capitol Expressway/Aborn Road	41.9	D	48.0	D	54.6	D
Capitol Expressway/Silver Creek Road	60.3	E	52.4	D	42.1	D
Source: Hexagon Transportation Consultants, 2006.						

Comment 22-K

Schools: Section 5.3.4.1 provides an Impact Analysis based on inputs from the East Side Union High School District. Since representatives of this school district have been in negotiations with the developers on possible school impact mitigation measures, the inputs to this DEIR cannot be considered to be the independent and unbiased position of the City. It is requested for the City to retain an independent and unbiased consultant to provide an appropriate impact analysis and mitigation recommendations to this EIR. This should also happen for all other school districts affected if similar discussions are taking place.

Response 22-K

In analyzing impacts upon schools, the City routinely requests information from the affected school district(s) regarding student generation rates, as well as existing and projected school enrollments/capacities. This is the same methodology used for analyzing impacts on utilities, whereby the City contacts the applicable utility companies for information on demand and capacity.

The City and EIR consultants have experience in working with many school districts. Thus, if a school district were to request the City to use student generation rates that were markedly different from typical rates, the City would either disclose that fact in the EIR, or it could exercise its independent judgment

and decide to use what it feels are more appropriate rates. For this EIR, the rates supplied by the school district are not atypical.

For a discussion of appropriate mitigation measures under CEQA for impacts to schools, please see the Master Response for School Impacts & Mitigation on page 7.

Comment 22-L Police Protection: Police services are discussed in Section 5.2 (p. 301) states conclusions without any supporting studies or references that can be used to judge the increased services as a function of the number of new housing units and commercial/retail development. Data should be provided in the EIR on the incremental increase in calls, additional staffing, or administrative capacity to effectively manage services under the various scenarios.

Response 22-L As noted on page 298 of the Draft EIR, issues such as police staffing levels are fiscal impacts, not environmental impacts under CEQA.

Comment 22-M Base Infrastructure and Community Amenities: Base Infrastructure and Community Amenities in the DEIR do not match the listed items provided to the EEHVS Task Force at the December 14, 2005 meeting. The following discrepancies are noted: 1) The EEHVS Task Force Amenity Item 10 to complete preparation of a bike master plan has been modified to just the commitment to add bike lanes on White Road (DEIR Section 2.2.2) and on an extension of Yerba Buena Road (DEIR Section 2.1.4.1); 2) Sports facilities on the Berg site (EEHVS Task Force Amenity B) is not mentioned in the DEIR; and 3) EEHVS Task Force Additional Potential Amenities item EE, Wenlock Trail, is not in the DEIR

Response 22-M The list of community amenity projects in the EIR is not meant to be exhaustive. The City recognizes that the list of community amenity projects that could receive EEHVS-related monies is evolving over time based upon input from the community. Adding or subtracting from this list would not change any of the environmental analyses contained in the EIR.

Comment 22-N Environmental Setting, Impacts & Mitigation, Geology: In Section 4.7, the mitigation proposed on the Berg/IDS and the Legacy sites to avoid impact from a known earthquake fault (Quimby Fault) and two unnamed faults on the northeastern edge of these properties seems to be questionable based on the data and conclusions provided by the DEIR. The Quimby Fault and the Evergreen Fault, the two closest faults, are both designated in a recent study as active (Reference: Sowers, Janet M., and Pearce, Justin T., "Geomorphology of the Historic Silver Creek Watershed," William Lettis & Associates, Inc., Walnut

Creek, CA, prepared for the SCVWD, February 28, 2003.) in contrast to the studies provided in the DEIR (Appendix J). The DEIR studies (Appendix J) and other studies also point out that the Hayward Fault is only about 1,500 feet away from both of these properties. No data or other supporting references are supplied that seem to rationalize the creation of an exclusion zone of only 100 foot width in places over the nearest faults. Also, supporting data and rationale is not included that allows one of the exclusion zones (Legacy site) to terminate on its northern end so that houses can be built on this site on top of what would be a continuation of the fault line. This seems totally inadequate to protect residential housing.

Additionally, a seismic hazard report published by the California Division of Mines and Geology (Reference: "Seismic Hazard Zone Report for the San José East 7.5-Minute Quadrangle, Santa Clara County, California," Seismic Hazard Zone Report 055, California Division of Mines, 2000.) estimates that ground shaking at the location of the Legacy and Berg/IDS sites could experience greater than 0.5g peak ground accelerations during reasonable earthquake occurrence assumptions for the Calaveras Fault. Such shaking is considered severe by state reports available (Reference: www.abag.ca.gov).

Also, the proposed development of residential lots within approximately 25 feet of one of the new 2.75 million gallon recycled water storage tanks (Figure 11 and Memorandum to San José City Council, Council Agenda Item 02-24-04, "Subject: Public Use and Necessity Hearing-Legacy Partners," dated January 28, 2004.) imposes an unnecessary risk to any buildings and inhabitants in the vicinity, and it cannot be determined that this risk has assessed anywhere in the DEIR.

In consideration of the above factors, it does not seem reasonable to permit any further development on those portions of the Legacy site that are on the eastern boundary of the site or that extends to the north behind the existing Hitachi Campus site. In addition, development on the Berg/IDS site adjacent to the known fault should have a wider Building Exclusion Zone for greater protection.

Response 22-N

The studies cited in this comment are regional studies that provide the public, planners, and geologists with information regarding potential geologic hazards in a general area. These studies serve to alert officials (e.g., the City Geologist) to potential hazards on a given site; such regional studies are often the “trigger” for the City to require the preparation of a site-specific geotechnical report.

The Berg/IDS and Legacy Partners properties have been the subject of a number of site-specific geotechnical and fault delineation studies. The most recent

site-specific studies by ENGEO (2004) and Kleinfelder (2004) are part of Appendix J of the Draft EIR. In these studies, which incorporate site-specific fault studies by others, the Evergreen and Quimby Faults are considered at least potentially-active fault features and are zoned by the State of California on their Earthquake Fault Zones Map (1982). Mapping by Wentworth (1999), Jennings (1994), City of San José Fault Hazard Map (1983), and others also depict these geologic features.

Due to their proximity to the Berg/IDS and Legacy Partners properties, several site-specific fault studies were undertaken, with observation and input by the City of San José Engineering Geologist, to locate the Quimby Fault and other secondary features. As depicted on the geologic mapping prepared by ENGEO (2004) and Kleinfelder (2004), which incorporates findings from site-specific studies by others on the property, the Quimby Fault was encountered and a minimum 40-foot structure exclusion zone was established on either side of the Quimby Fault. Additional secondary shear splays (Faults A and B in Appendix J) were identified within the southern portion of the Legacy Partners property by Parikh (2002) and ESA (1992) and received minimum 50-foot structure exclusion zones on either side of the features.

As with standard engineering geologic practice, the width of the setback zone is dependent upon the anticipated activity of the feature, the orientation of the fault contact, the width and character of the shear zone, and considering of the planned development and grading concepts. Given this information, plus review and consideration of other published mapping and reports, the site-specific fault study findings and structure exclusion zone widths remain valid for the proposed project and are consistent with current standards of practice in the Bay Area.

The water storage tanks referenced in this comment will pose no hazard to future residents/users of the Legacy Partners property. This statement is based on the fact that a berm will be constructed adjacent to the tanks, which will direct water away from the site in the unlikely event of tank rupture, as stated in the February 12, 2004 memorandum to the City Council from the Directors of Public Works and Environmental Services.

RESPONSES TO COMMENT #23: KETAN DESHPANDE

Comment 23-A Traffic: LOS in the area will generally worsen, in many cases, with no possible ways to mitigate it. Have there been other suggestions/considerations from any of the experts that the city has consulted with, about how to mitigate the traffic

conditions? Bike paths, though nice, are not a feasible long-term solution to inherent traffic problems. Is the city really suggesting that I go to OSH on my bike to buy plants and gardening tools? Or ride my bike 20 miles each way on dangerous LOS E & F city streets to and from work? Public transportation, even with the improvements that are thought of, will not enable me to get to my work, since it is not really close to LRT. Currently, it takes me 20+ minutes to get onto the 101 freeway either from the Capitol or Yerba Buena on ramps. That is on a good day. It has taken more than 30 minutes, on bad days. Yes, I do carpool, but that does not work out all the time. Times are equally bad on the trip back home from work. Even if the proposed enhancements to the Freeway do get put in, I will end up waiting on the freeway with the newly added cars from the new neighborhoods.

Response 23-A

As described in the Draft EIR, some of the traffic impacts can (and will) be mitigated, but other impacts cannot be mitigated to a less-than-significant level. Beyond the mitigation measures listed in the Draft EIR (see pages 151-154), there are no other feasible measures known to the City.

The City does not intend for all trips to be made on bicycles or public transit because, as noted in this comment, this would be impractical for most people. The City does, however, encourage non-automobile trips whenever practical. As such, the City works to provide facilities that foster modes of travel such as transit, bicycling, walking, etc.

Comment 23-B

The General Plan document from the San José City website indicates that for developments occurring in the city, "The minimum overall performance of City streets during peak travel periods should be level of service "D"." (page 88, item 5). But the EIR indicates that a number of intersections will be worse than this. How can the city agree to a clear violation of it's own guidelines?

Response 23-B

The text referenced in this comment is one of many level of service goals established by the City. Achievement of these goals is dependent upon numerous factors, including the availability of funding. In addition, the goals are meant to be overall objectives, recognizing that there may be specific situations where achieving the goal is either impossible or undesirable. For example, achieving LOS "D" at a given intersection might not be desirable if it meant that businesses or homes would need to be acquired to construct lanes of traffic.

Comment 23-C

Schools: There has been talk about setting aside a ridiculously small area for schools, given the requirements that the Superintendent of schools has stated (5 acres were set aside, but a minimum of 20 acres are needed, as I recall). What

plans, if any, does the city have, to accommodate the numbers of students that will be need to be supported, in this new development? "Available capacity in the school district" is an abstract notion for city officials. Us folks have to live with the effects of that abstraction - viz, longer drive times to different parts of the city for kids drop-off/pickup. These will worsen the quality of life, if the kids cannot go to school nearby, especially in a big city like San José. This also seems to violate the guidelines laid out in the general plan doc, that "The City and school districts should cooperate in the joint planning, development, and use of public school facilities" (page 92 of the doc referenced above).

Response 23-C Please see the Master Response for School Impacts & Mitigation on page 7.

Comment 23-D The EIR talks about the three-legged stool. To me, it looks like some of the legs are heavily loaded, and will cause the stool to topple over, unless some balance is added in the amenities. I hope that you and the City Council will address all these concerns and someone from your office will get back to me about these issues.

Response 23-D This comment states an opinion that the proposed EEHVS does not appear to be balanced. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #24: LISA DESHPANDE

Comment 24-A Below is a message that was sent on July 27 regarding the school situation here in the Evergreen area. I am extremely upset that 6,000 housing units are proposed for development. This will cause a huge school problem and traffic problem. That area was supposed to be ear marked for industry, which would bring reverse traffic and not influence the already overcrowded school. As it is there are some people who live in this area who cannot send their child to the local school because there is no space. How would you feel if you were in this situation? And then to add up to 6,000 more units? That is ridiculous and outrageous!! I cannot believe that this is up for consideration and I am asking that NO more units be build here in Evergreen.

Response 24-A This comment states the opinion that no additional housing should be constructed in Evergreen. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the

EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 24-B I am a resident on Pomerado Drive. I am concerned about all the new housing that will be built. In the plan I did not see any location where a new school or schools will be developed. Where are the children in these almost 2,000 house going to go. My children go to Matsumoto and that school is full, as well as the middle and high school. Can you please let me know where these children are going to go to school?

Response 24-B The project applicants have proposed to reserve two 5-acre areas, one on the Pleasant Hills Golf Course property and one on the Berg/IDS property, for future new schools in the event the school districts decide to construct them. However, no decisions regarding schools have been made. Please see Section 5.3 of the Draft EIR. See also the Master Response for School Impacts & Mitigation on page 7.

RESPONSES TO COMMENT #25: ADELAIDE DEMEDEIROS

Comment 25-A Must plans here sacrifice the Tully neighborhood and relegate the open space and single-family housing to the north and east?

Response 25-A It is not fully understood what is meant by this comment. However, none of the EEHVS scenarios includes development that would encroach into any neighborhoods along Tully Road.

Comment 25-B Do not bring retail/commercial into this residential community! We already suffer from the adverse effects of the development of Tully & Capitol! No attached housing!! (Especially other than along White!!) Preserve the area as open space/community park! This neighborhood has none!!

Response 25-B This comment states opinions regarding the proposed development of the Pleasant Hills Golf Course property. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #26:
JEFFREY FRISBIE**

Comment 26-A I have lived in Evergreen for more than 20 years, and have been witness to the ever-increasing traffic congestion in our neighborhoods, despite improvements that have been made to our roads and intersections. When I read the Environmental Impact Report (EIR) summary for the Evergreen-East Hills Vision Strategy (EEHVS) Project, I was shocked and dismayed by the lack of mitigation measures that will be available to counteract the expected large number of additional vehicles that will use those same congested neighborhood access roads.

Section E, the last section of the Summary - Areas of Controversy - reads in its entirety: "The primary issues raised by EDP-area residents and community leaders during the EEHVS process have been traffic-related concerns." The Transportation and Traffic section of the EIR Summary Table S-4 identifies nine problem areas that would be created by the housing build-out. According to the EIR, very little will be done to address those problems. The proposed mitigation measures are meager to say the least. For seven of the nine problem areas, the solution statement is "There is no feasible mitigation for these impacts", and the result will be a negative "Significant Unavoidable Impact".

Response 26-A As a point of information, the City notes that substantial roadway improvements - beyond those listed as mitigation - are proposed as part of the EEHVS. Please see the list of roadway improvements in Table 14 (page 58) of the Draft EIR. Nonetheless, as referenced in this comment, the Draft EIR concludes that a number of the identified significant traffic impacts cannot be mitigated.

Comment 26-B We already routinely encounter situations at various intersections on Aborn, Tully and other feeder roads in which traffic is at a standstill during green lights because of nowhere to go. According to the EEHVS Project's own analysis, conditions will only get worse. This is an unreasonable and unacceptable outcome, and is in direct conflict with the Project's stated vision of "increased quality of life". The project in its present form must not be approved.

Response 26-B This comment states the opinion that the project should not be approved due to unacceptable traffic impacts. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #27:

MICHAEL GABLER

Comment 27-A I am a resident of the Evergreen area, living off of Tully Road, East of White Road. I am also the President of the Evergreen-Cedar Grove Neighborhood Association and Vice President of the Site Council at Evergreen Valley High School. I do not feel that the EIR has adequately addressed the traffic or schools issues as defined by the guiding principals.

The principal of fostering "Neighborhood Schools" is great but there is no provision for another high school in the area of development, nor even in the area south of the development. In fact, the East Side High School District is already making plans to shift boundaries to start to accommodate the new growth which will actually mandate that the youth attend schools outside their neighborhoods. This is a clear violation of the Guiding Principals. Unless land is set aside for the development of a new high school, I will not endorse or support the development.

I also do not think that the proposed traffic enhancements will adequately address the proposed housing growth. The recommended traffic improvements will not even maintain an status quo with an already existing bad commute let alone improve the traffic flow.

Response 27-A This comment states the opinion that the proposed traffic enhancements are inadequate and that the project should not be approved unless land for a new high school is set aside. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #28:

RICHARD GARCIA

Comment 28-A There is a small herd of deer in the golf course. Fish and Game will have to capture and relocate them.

Response 28-A Any deer on the site would make their way back east and into the hills. Fish & Game would not likely relocate deer.

**RESPONSES TO COMMENT #29:
SHERRY GILMORE**

- Comment 29-A** I have attended many community meetings and the overwhelming opinion is very clear...OUR COMMUNITY CANNOT ABSORB THE TRAFFIC FOR THIS PROPOSED DEVELOPMENT. Even if all of the proposed traffic calming amenities are implemented, the outcome will be a longer commute time for all of our residents. Many, if not most, of the homes in this community are multi-family or multi-generation families. That means there are not just one or two commuters per household, but often three or four.
- This community does not have sufficient arteries to move people in and out of our neighborhoods. The major intersections are already at a poor level of service during commute times, and the addition of more homes will make the situation significantly worse.
- Response 29-A** This comment states the opinion that, even with the proposed roadway improvements, the area cannot handle the traffic from the proposed project. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.
- Comment 29-B** The scenarios presented in the EIR all have similar outcomes in that the “cumulative” results show “Significant Unavoidable Impact.”
- Response 29-B** This comment restates conclusions contained in the Draft EIR, which is that various cumulative impacts will be significant and unavoidable.
- Comment 29-C** Changing the HOV lanes on Capitol Expressway would just discourage car-pooling, probably create more traffic, and definitely create more pollution.
- Response 29-C** As stated in the Draft EIR, the planned LRT extension - which is independent of the EEHVS - will remove the HOV lanes on Capitol Expressway between I-680 and Nieman Boulevard. Because of their relatively short length, the remaining HOV lanes between Nieman Boulevard and U.S. 101 would not be widely used. Therefore, the City is recommending that the lanes be opened to all traffic during peak commute periods.
- Comment 29-D** Again the city talks about how they value the community’s input. So the city “talks the talk,” let’s see if they “walk the walk,” because the message I have heard repeatedly throughout the past 2-3 years has been consistent: **We (the**

majority of people in our community) DO NOT support this proposed development, we do not have the infrastructure to support this development (even with mitigations). Therefore, I believe the best of the five scenarios is scenario #1, that the properties not be re-zoned as a group, nor allow them to be re-zoned piece by piece!

Response 29-D

This comment states the opinion that EEHVS Scenario I (No Project) is the best scenario. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #30:
LEIGH GOLDSTEIN**

Comment 30-A

Has the school district given any specifics (and if so, what are they) as to how the boundaries will be re-drawn for the high schools? No one wants to end up having their kids going to school at a location farther away than the school nearest to their home.

Response 30-A

The ESUHSD has released their proposed high school attendance area boundary changes. The proposed changes can be viewed on their website at: www.esuhsd.org/Administration/Proposed_Boundary_Changes.html

Comment 30-B

Traffic: Has the EIR analyzed the timing for the completion of the various traffic improvements in relation to the completion of the proposed housing? My observations are that housing can be built a lot faster than freeway improvements.

Response 30-B

The proposed revised version of the EDP (see Appendix B of the Draft EIR) sets forth the proposed phasing of the transportation improvements. The goal of the phasing of these improvements is to link the timing for construction of new development with the availability of additional roadway capacity.

Comment 30-C

Will the 2,000 - 3,000 trees to be removed end up being replaced by saplings or grown trees?

Response 30-C

Depending on the size of the tree being impacted, replacement trees will have a minimum size of a 24-inch box or a 15-gallon container. See Table 48 on page 216 of the Draft EIR for details.

**RESPONSES TO COMMENT #31:
TERRY GOTCHER**

Comment 31-A The City of San José currently has difficulty maintaining the streets and road surfaces. The difficulty is not enough money. My question is simple: will the fees and ongoing taxes generated from development pay for the increased cost of street maintenance that will be required?

Response 31-A There is no definitive answer to this question because the City Council is constantly in the position of setting priorities for city projects and services, based on projected revenues and needs.

**RESPONSES TO COMMENT #32:
LOREE KANT**

Comment 32-A I see in the EIR on p. 163, "Long-Term Noise Impacts at the Pleasant Hills Golf Course Property" that "future residents will be exposed to noise levels that exceed the City's noise/land use compatibility guidelines." I do not see a report about existing residents. For many residents, the plans include new units built either directly adjacent to their existing backyard, or across the street. The additional noise of new units will impact us as well as future residents. Is there a section of the report addressing the impact of this additional noise of new units on existing residents? If not, I think this should be added.

Response 32-A The reference to page 163 that is cited in this comment refers to the fact that certain areas on the golf course property are currently exposed to elevated noise levels from traffic on two adjacent arterials, White and Tully Roads. This means that the new homes will need to be designed so that outdoor use areas (e.g., backyards, patios, etc.) and indoor areas have noise levels consistent with the City's guidelines.

For existing residences, there are two aspects of potential long-term noise impacts: 1) will the proposed land uses be compatible with the existing residences, and 2) will increases in traffic from the new development cause a significant increase in noise along roads that are bordered by residences.

Regarding the first aspect, noise associated with new residences (e.g., people talking, children playing, radios playing, lawnmowers, air conditioning units, etc.) would be similar to, and compatible with, noise from existing residences. While a new residence to be constructed behind an existing residence on what

is currently open space may raise ambient noise levels, the increase would not be significant.

Regarding the second aspect, existing and projected traffic volumes were modeled for the purpose of quantifying existing and future noise levels. Locations where the projected increase in traffic noise would be three or more decibels were deemed to be significantly impacted. Those locations are shown in Table 35 on page 167 of the Draft EIR. As noted in the footnote of that table, locations not listed in the table were determined to have project-related noise increases of less than three decibels.

Comment 32-B Reading "Mitigation for Long Term Noise at the Pleasant Hills Golf Course Property", section 4.3.4.3, p. 170, with a referral to p. 169, I am looking for mitigation which will improve this new noise on my property, which is immediately adjacent to the Golf Course Property. I see that the suggested mitigation is for "residents to keep windows closed, which will mandate the inclusion of forced-air mechanical ventilation systems."

Given that my house does not have air conditioning and will get to very high temperatures in the summer if the windows are closed, which will result in unhealthy and very uncomfortable conditions in the house, will mitigation include paying for installation and running of an air conditioning system for my house? Otherwise, how can the long term noise be described as "Less than Significant Impact with Mitigation"?

Response 32-B For the reasons described in Response 32-A, long-term noise impacts at existing residences adjacent to the Pleasant Hills Golf Course property would not be significant under any of the EEHVS scenarios. Therefore, consideration of mitigation for long-term noise impacts at existing residences is not warranted.

Comment 32-C I heard a biological survey was performed on animals, including non "special-status" species, present on the Pleasant Hills Golf Course Property". How can I get a copy of this report?

Response 32-C The biological reports for all of the EEHVS opportunity sites, including the Pleasant Hills Golf Course property, are contained in Appendix H of the Draft EIR. The Draft EIR and all of its appendices are posted on the City's website at www.sanjoseca.gov/planning/evergreen/eir.asp. Paper copies of the EIR and appendices are also available at the locations listed on page 1 of this document.

Comment 32-D As both a humanitarian and nuisance concern, how many rats (and these are a health concern as well), raccoons, opossums, and stray cats will be displaced and come foraging in my yard and house?

Response 32-D When vegetation on a site is removed or altered by development, the animal species that utilize that vegetation are forced to find suitable habitat elsewhere. While species such as raccoons, opossums, rats, mice, etc. are not uncommon in neighborhoods throughout San José, they prefer creeks and large undeveloped areas because those are the locations where their food sources are present. There is no evidence to suggest that the development of any of the opportunity sites will result in existing neighborhoods becoming overrun with non-domesticated animals.

RESPONSES TO COMMENT #33: JANE KOWALEWSKI

Comment 33-A In reviewing the EIR Summary, the Draft Environmental Impact Report for the Evergreen East Hills Vision Strategy Project (Feb 2006) finds no impact on historic structures in any of the EEHVS scenarios. I must point out that there is a nineteenth and twentieth century ranch headquarters immediately adjacent to the Berg property. The Edwards Ranch (3830 Aborn Road) still retains a house (c1860, c1900, c1995), a barn (c1900), a cottage (c1930), several outbuildings (c1920), a brick lined holding tank (c1880) and other features such as a water tank, retaining walls, and a corral with loading chute. There are known archaeological remains including burials on the property as well. Though this property is outside the city limits and urban services boundary, it is immediately adjacent to the eastern edge on the Berg property extending between Aborn and Fowler Roads. This property has not been evaluated for its eligibility to the National Register of Historic Places.

Response 33-A The City is aware of the historic Edwards Ranch on the property adjacent to the Berg/IDS site, as well as historic archaeological resources associated with that Ranch. As part of the analysis undertaken for this EIR, subsurface archaeological testing was conducted on the Berg/IDS property in those locations where it was thought to be a possibility that buried cultural resources might be present. No resources were found. However, based upon that testing, further monitoring of construction by an archaeologist will occur, as stated on page 197 of the Draft EIR.

Comment 33-B If my memory serves me, another EIR completed in the 1980's identified at least two prehistoric sites on the Berg property itself. Since the Berg property was

once part of the Edwards Ranch there is also the strong potential for historic sites relating to the production of hay, grain, apricots, prunes and walnuts including a barn, migrant camp, out houses, prune dipper, sulfur sheds and other activities related to the agricultural activities of the ranch which continued until c1965.

Response 33-B

This comment is correct. As described on page 192 of the Draft EIR, there are two known archaeological sites on the Berg/IDS property. This is the reason why follow-up subsurface testing was conducted in 2004 and why construction activities will be monitored by an archaeologist.

**RESPONSES TO COMMENT #34:
RAVINDRA KURAMKOTE**

Comment 34-A

Traffic: I feel that the additional estimated impact which moves the intersections to LOS E or F on some of the intersection seem very less. I think it will get worst than that. What was the criteria used to estimate the impact the new housing will have on traffic? Did the city study how the new homes in the last four years by Shapell, Citation and Pinn brothers impacted the traffic versus the houses which got occupied 10+ years or more? For example, I have found that impact differs significantly between people who bought houses 10+ years ago and people who bought recently. Because of the higher mortgage, I find that 95% of the recent influx have both working spouses. Whereas people who bought houses 10+ years did not require one of the spouses to work or even if they worked they had the choice (and most of them chose it) to reduce to one working spouse after getting the mortgage into control in couple of years. That is not the case with people who have moved in recently. Both spouses will have to continue to work significant number of years to get the mortgage to a level where one spouse can quit the job. Moreover, I have seen several houses that have more than one family live when the house contains four bedrooms or more to reduce the mortgage impact. The builders are encouraging such a strategy to sell the houses. For example, look at the houses built by Shapell with in-law quarters or houses with 5 or 6 bed rooms built by Citation. I request you to drive around the streets with new houses to see the number of cars on the street instead of in the garage. Hence, there are more vehicles hitting the road to get to work during peak times because of the last few years influx than it was 10 years back. Hence, I strongly urge the city not to base its estimate on the 10 years plus data to determine the impact on traffic. The city should conduct a study on the pattern of recent dwellers to gauge the traffic impact accurately.

Response 34-A In the field of traffic engineering, traffic counts are constantly being conducted for the purpose of ensuring that trip generation rates reflect current conditions and behaviors. The City monitors and updates its trip generation rates to reflect the latest information, so that projections of future traffic volumes will be as accurate as possible.

The concern expressed in this comment was brought up during various EEHVS Task Force meetings. In response, traffic counts were taken in three Evergreen neighborhoods to determine if the City's standard trip generation rates were appropriate. As described on page 132 of the Draft EIR, based on the results of the surveys, the City and consulting traffic engineers determined that the use of the City's standard trip generation rates were appropriate for this area.

Comment 34-B School: Most of the people who buy houses in Evergreen do so for its school. Hence, significant number of people have at least one school-going kid. Also, typically number of children per household varies with ethnicity. As I had indicated in the previous section, there are a number of houses with more than one family. That trend might increase going forward with housing prices as well as mortgage interest going up.

In contrast to this, the projected number of new students with the new housing in the report seems too low. Moreover, as indicated in the Evergreen school report, the middle and high schools are already running to capacity. Hence, I urge the city to study the impact on the schools because of the recent influx into the Evergreen area, the ethnicity, the average number kids with that ethnicity and how it is impacting the school. Our son goes to Carolyn Clark. Being a new school, it has not yet reached its capacity. But, the way expansion is being planned, we are really concerned about this school as well as middle/high school that our son is expected to attend in future.

Response 34-B The student generation rates used in the Draft EIR were provided to the City from the three local school districts. The City uses rates provided by the school districts, as opposed to generic rates, precisely because each district has its own unique set of demographics, economic conditions, housing stock, etc., all of which can affect the average number of students per household.

Comment 34-C In addition, the commute is getting worst day by day and is really having a significant impact on the quality of our life. Hence, I request the city to redo the study taking into account the factors that I have mentioned above and come up with a plan that improves instead of worsen the existing situation.

Response 34-C For the reasons described in Responses 34-A and 34-B, the City believes that the methodologies used to quantify traffic and schools impacts are appropriate for the Evergreen • East Hills area.

**RESPONSES TO COMMENT #35:
LOU KVITEK**

Comment 35-A Table 62 asserts that the Student Generation Rate (SGR) (0.2) used comes from ESUHSD. ESUHSD covers a vast area of San José. Upon closer scrutiny in the district's demographer's report, one would find that the actual SGR for the areas of the district affected by the EEHVS developments is actually 0.23. So under the developer's preferred Scenario V of 5,150 units, and adding the additional pool units of 500 for a total of 5,650 units, the actual number of students added to ESUHSD would be 1,300 (270, or 20%, more than the 1,030 published in the EIR).

Response 35-A As noted in this comment, the student generation rates used in the EIR were provided directly to the City by ESUHSD staff. Even if one were to assume that the “1,300 student figure” listed in this comment is correct, it would not change the basic conclusion stated in the Draft EIR, which is that the ESUHSD has capacity for an additional 4,000 students (according to ESUHSD staff). [Note: During the preparation of these responses, the City received a letter from the ESUHSD dated 4/12/06, in which the ESUHSD states the EEHVS will increase district enrollment by approximately 1,100 students. The letter is posted on the City's website at www.sanjoseca.gov/planning/evergreen/schools.asp.]

Comment 35-B The EEHVS development will most heavily impact two ESUHSD schools in the south and southeast area of District 8: Silver Creek (SC) and Evergreen Valley (EV). For the 2006-2007 school year, SC will have 2400+ students and EV will have 2700+ students, for a total of over 5,100 students. SC high school was built for 1,700 students and EV was built for 1,600 students, for a total permanent capacity of 3,300 students. Planned campus expansions will bring the total to SC 2,150 + EV 2,050 = 4,200. Even without the EEHVS development, these schools will be over-enrolled by 900 students - which is already half the accepted proper capacity for a high school. Development of already approved new homes in the area is continuing and will add an additional 500 units and consequently 115 more students to the high schools.

Planned boundary changes affecting SC and EV will have only a minor effect on the populations as the district, justly, strives to keep kids together in school by trying to match attendance boundaries with feeder school district boundaries

and with neighborhoods. Maintaining neighborhood schools is a guiding principle of the EEHVS task force. Based on existing boundary locations, current development and the EEHVS projects will add 660 students to EVHS and 530 students to SCHS. This would bring the EV enrollment up to 2700+660 3,360; and the SC enrollment up to 2400+530 = 2,930 - with a total of the 2 schools at 6,290. With these schools' permanent capacity at 4,200, that's 2,090 kids more than the capacity.

Principals of the schools are tasked with delivering a quality education, in a safe environment, while providing opportunities for academic, personal, and social success for each and every student (as stated in the district's motto. I have polled 5 different principals in ESUHSD, and they all agree. In order to deliver this, they know the enrollments should be capped at 2,000 students. At a time when California, and San José, schools are struggling to educate our children, we need to enable the front-line teachers and administrators with the tools and environment they need to raise education performance and safeguard our children's future. Notice that this cap of 2,000 matches well with the 2,090 overenrollment that EEHVS will bring.

Paragraph 5.3.4.2 of the EIR notes that the district has existing capacity to accommodate 4,000 students. Much of this excess capacity is actually accommodated using portable (temporary) classroom buildings in the style of construction site trailers. Furthermore, none of this excess capacity exists in (EEHVS impacted) Silver Creek or Evergreen Valley high schools. As I write this, the district is considering (has not acted) boundary changes that will only pull about 200 students from EV and zero students from SC. In order to maintain the priorities of keeping kids together from feeder schools and/or from neighborhoods, and in keeping with the EEHVS guiding principles, there aren't any possible boundary changes that can alleviate the chronic overcrowding at EV and SC. The development of this area of District 8 has just brought more students than the current high schools can accommodate. So, the EIR's basic conclusion that the scenarios would not require a new high school are incorrect when you consider the cumulative effect the EEHVS development will add to the already over-crowded situation.

ESUHSD board members, including Board President Herrera, and ESUHSD administrators have stated that the district will indeed need a new school in the southern part of District 8 and the district must move now to acquire a land site suitable for this school. This unequivocal recognition of the enrollment crisis in this area of the district validates the need for a new high school site to be identified and reserved as an integral part, and requirement, of the EEHVS project. After EEHVS completes, there will be no land sites left within the

buildable portion of southern Evergreen area suitable for a 40-50 acre high school... NONE! This is the last, and only, chance to deal with the current, and worsening, high school over-crowding in this area and reserve a site suitable for a new high school.

In section 5.3.5 the EIR asserts that the school impact will be mitigated by payment of statutory school impact fees. These fees are woefully low and unsuited to the current needs of all schools in California. While cities like San José can hide behind CEQA to avoid providing more support for schools, San José city government, and its many 'pro-education' politicians, need to stand firm on restricting development that does not adequately address school impact - and just paying mandatory fees does NOT address the school impact.

In summary, the EIR conclusion of 'less than significant impact' is incorrect. 3,000+ student high schools are not desired by the community, not desired by principals, and recognized as a risk factor by the Hoover Institution. The EIR has drawn an erroneous conclusion that is not supported by a detailed analysis of the facts, and not supported by the community or school board.

Response 35-B

Part of this comment takes issue with the adequacy of the analysis of school impacts in the Draft EIR. Please see the Master Response for School Impacts & Mitigation on page 7.

This comment also states the opinion that the City should follow the EEHVS Guiding Principles and require more than just the payment of school impact fees. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #36:
WESLEY LEE**

Comment 36-A

I am concerned that the developments will significantly impact the traffic delays at the intersection at San Felipe and Yerba Buena. At times in the morning (Evergreen College student commute), and during PM traffic, I have perceived to an LOS of "F". I have personally seen traffic backed up on Yerba Buena beyond the left turn lane, and concurrently at the feeder entrance into the college on San Felipe, traffic backed out onto the street. I would estimate that in this instance in the morning, there are over 100 cars queued. I am not convinced that

the mitigating measures (adding an additional left turn lane) can accommodate the increased load due to the “new” developments.

Response 36-A The San Felipe/Yerba Buena intersection is presently operating at LOS ‘C’ in both the AM and PM peak-hours. As noted on page 65 of the Draft EIR, the EEHVS will implement the following improvements at the San Felipe/Yerba Buena intersection under Scenarios II-VI: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added, 2) a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added, 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended.

With the above-listed improvements in place, only Scenario VI would significantly impact this intersection; see Table 26 on page 135 of the Draft EIR for the levels of service under each scenario.

Comment 36-B I am concerned about the height of the building proposed on the Evergreen College site. A building height of 60 feet does not blend in with the surrounding neighborhood. Also, this height is in violation of City building height standards in the area.

Response 36-B This comment is correct in that 60 feet exceeds the City’s existing 50' building height limitation for this site. Therefore, as noted on page 55 of the Draft EIR, should the Council decide to allow buildings with heights above 50 feet, the text of the General Plan will need to be amended to allow the greater height.

The analysis in the EIR (see page 268) concluded that the proposed 60-foot buildings would not result in a significant visual or aesthetic impact because those taller buildings would be located in the interior of the site. The buildings along the north boundary closest to the neighborhood to the north would have heights of one or two stories. This conclusion notwithstanding, the opinion expressed in this comment that buildings with 60-foot heights would not blend into the neighborhood is noted for the record.

Comment 36-C I am concerned about the increased noise levels surrounding the Evergreen College area. Besides the noise from increased traffic, the noise from commercial traffic such as garbage trucks (more frequent than residential), and delivery trucks will exceed City noise level standards in the area.

Response 36-C Section 4.3 of the Draft EIR analyzed the potential noise impacts associated with the project, including impacts relating to noise from increased traffic. The EIR

determined that increased traffic noise would result in significant impacts along a number of roadways, including Yerba Buena Road in the vicinity of San Felipe Road. EIR Table 35 lists all of the roadway segments in the project study area that would be significantly impacted. Mitigation measures are proposed that would reduce these impacts, although not to a level below significant.

Noise from the proposed commercial uses will not be significant because it will be designed to comply with the City's Commercial Design Guidelines, which include measures (e.g., setbacks, shielding of mechanical equipment, etc.) to minimize noise impacts and other potential land use conflicts with adjacent or nearby residential uses. There is also an existing shopping center on the corner of San Felipe and Yerba Buena Roads, immediately adjacent to the area proposed for development on the Evergreen Valley College site, so noise associated with commercial uses (e.g., garbage pickup) is already part of the ambient noise environment. Finally, it should be noted that the City has no noise standards for delivery trucks.

Comment 36-D

I am concerned about the density of housing in the Evergreen College area. The proposals of 14 living units per acre far exceeds the housing density in the surrounding area. Further, this density will create localized traffic congestion in the area. The intersection at San Felipe and Yerba Buena will become a "choke" point for traffic. As mentioned above, I've personally seen approximate 100 cars queued up. Such dense development will only great increase this problem.

Response 36-D

The project will increase the number of vehicles using the San Felipe Road/Yerba Buena Road intersection. The project will, however, construct the following improvements at that intersection: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added, 2) a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added, 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended.

Comment 36-E

I am concerned about the impact of development in regards overcrowding of schools. The Evergreen and Silver Creek high schools are already at or beyond capacity and obviously the new developments will over strain these limited resources. There is no mention of adding capacity to these schools, nor a mention of building (or at least reserving land) for a new high school. Section 5.3.4.2 speaks of boundary readjustment. This is a highly divisive issue which had split our quiet Evergreen community not too long ago. Also, this section mentions that ESUHSD has a capacity for 4,000 additional students. Where

does this number come from? From what schools? And how does this resolve the issue of overcrowding. There is no plan articulated on how to resolve this issue, and for the sake of our children, there needs to be a plan -- with community support.

Response 36-E

As referenced in Section 5.3 of the Draft EIR, the information regarding capacity for 4,000 additional students, as well as the proposal to adjust school attendance boundaries, was provided to the City by the staff of the ESUHSD. As stated in the text, while enrollment at some ESUHSD schools is near capacity, other high schools in the ESUHSD are operating well under capacity. The intent of the ESUHSD in stating that school attendance boundaries could be adjusted was that demand could be distributed more equitably among the high schools in the district.

Comment 36-F

On page 307, table 62, the estimates of additional students were based upon 0.2 students per dwelling unit. I question this number since it appears to be an average of ESUHSD as a whole. The developments in Evergreen will be new dwelling units, and I believe the student generation number would be considerably higher due to families which move into the newer homes tend to have more school age children than the ESUHSD as a whole. Is there demographic data for persons living in new homes? In my neighborhood (Madison subdivision near EVC), I see an average of around 2 to 3 children per family which is probably indicative of the families moving into the newer homes.

Response 36-F

During the preparation of this EIR, ESUHSD staff were contacted and asked for the student generation rate that should be utilized for the EEHVS. The rate of 0.2 students/unit was provided by ESUHSD. This rate yields up to 1,030 students under Scenario V. [Note: During the preparation of these responses, the City received a letter from the ESUHSD dated 4/12/06, in which the ESUHSD states the EEHVS will increase district enrollment by approximately 1,100 students. The letter is posted on the City's website at www.sanjoseca.gov/planning/evergreen/schools.asp.]

**RESPONSES TO COMMENT #37:
ERNEST LIN**

Comment 37-A

In regards to the EIR on the Evergreen Visioning Strategy, I would like to post concern about lack of planning on schools. Why is the school district planning on putting as much as 3,362 kids in a school that was initially built for 1,700 kids? I'm sure it is possible to cram so many kids into the school, but it will tax

the facilities and resources of the school. The school will not be as good. I don't believe any fair minded person will dispute this.

The quality of schools was the main reason I chose to live where I do. If we overcrowd the schools, then this rezoning will be a burden on the existing residents. It will force some residents to choose between putting their kids in a private school or an overcrowded public school.

This is not right. We should not rezone until we have plans for a new high school to handle the new development. The school district states that the 5,900 new dwellings would supply sufficient students for a 2,500 student high school. However, it costs too much to do. To add so many students to the area without adding a new school is irresponsible to the current residents and the new residents.

Response 37-A Based on information provided to the City by the ESUHSD, such information providing the basis for the discussion in Section 5.3 of the Draft EIR, the ESUHSD does not plan to overcrowd certain schools. Instead, it would adjust school attendance boundaries to prevent overcrowding at certain schools, while at the same time better utilizing those schools that are operating under capacity.

**RESPONSES TO COMMENT #38:
MARIA LOPEZ**

Comment 38-A The development of 6-story buildings on Arcadia property and future development will cause more traffic problems. Please tell me how one extra lane on Capitol Expressway will resolve the problem.

Response 38-A This comment restates information that is contained in the Draft EIR, which is that the project will result in significant traffic impacts at various intersections along the Capitol Expressway corridor. While the conversion of the HOV lanes to mixed-flow traffic between U.S. 101 and Nieman Boulevard will create some additional capacity, most of the impacts along Capitol Expressway cannot feasibly be mitigated.

Comment 38-B There are no new plans for a school in Arcadia property. So where do these new students from Arcadia property go?

Response 38-B According to information provided to the City by the Evergreen Elementary School District, development of the Arcadia property would necessitate the construction of a new elementary school (K-6). This is because the surrounding

K-6 schools are operating close to capacity. Under Scenario I, a new K-6 school would not be required. According to school district staff, District-owned land adjacent to Ley Va Middle School that is currently rented to the County for a special education program could partially meet the needs for a new school site. However, the staff indicated that additional acreage for the school from the Arcadia property would be needed.

**RESPONSES TO COMMENT #39:
YUFENG LUO**

Comment 39-A The small patch of land reserved for park/school is clearly not enough to build a K-8 school as described in the EIR. How can we say the school problem can be mitigated? It can not, as simple as that.

Response 39-A Please see the Master Response for School Impacts & Mitigation on page 7.

Comment 39-B The only way to have enough land reserved for school is to cancel the little league park and use that land for park/school as well. The \$40 million fund used for the little league park can be put to much better use for park and traffic improvements.

Response 39-B This comment states the opinion that land proposed for the little league should be used instead for school/park purposes and that monies earmarked for the little league facility could be better used for park and traffic facilities. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 39-C Every morning it is almost impossible to make the left turn from westbound Aborn Rd to Capital Expressway. There is a long backup line for the cars trying to make the left turn. People cut each other to merge into the left turn lane and it's like a war zone. With a couple thousand new homes on the Campus Industrial site it's going to become an even worse nightmare. However this is not even mentioned in the EIR.

We should extend the two left turn lanes on Aborn at the intersection with Capital further towards Brigadoon Way. Maybe even make the regular lane next to the left turn lane a dual purpose lane for both left turn and going straight.

The same problem happens in the evening on the right turn from Capital to eastbound Aborn. I don't know how to alleviate that one though.

Response 39-C As noted on page 130 of the Draft EIR, planned improvements to the Capitol Expressway/Aborn Road intersection - irrespective of any decision regarding the proposed EEHVS - consist of a 2nd eastbound left-turn lane and a 3rd westbound left-turn lane. In addition to these improvements, the EEHVS (if approved) will add a 2nd northbound left-turn lane to this intersection, as stated on page 66 of the Draft EIR. With these improvements in place, the Capitol Expressway/Aborn Road intersection would operate at acceptable levels of service under all project scenarios, and no further roadway improvements at the intersection are necessary.

RESPONSES TO COMMENT #40: MANNY MADRIAGA

Comment 40-A Does Hexagon Transportation Consultants, Inc. (Hexagon) have direct or indirect connections to the City of San José, the owners of the properties, and/or contractors and businesses who would benefit from the plan amendment and massive development?

Response 40-A Hexagon is an independent traffic engineering firm. It has no financial interests in, nor would it benefit from, the proposed EEHVS.

Comment 40-B Has Hexagon been audited or checked by the City of San José, Santa Clara County, and/or State of California as to their expertise, integrity, and fairness in: a) Developing transportation models; b) Interpreting codes and guidelines from city, county, and state government departments; c) Summarizing the impact of general plan amendments, impact to traffic, impact to schools, and impact to quality of life; d) Using realistic instead of optimistic assumptions.

Response 40-B Hexagon has prepared hundreds of traffic analyses for the City of San José and other cities in Santa Clara County and the Bay Area. Like it does for all traffic analyses prepared by any traffic engineering firm, City staff reviews, coordinates, and directs Hexagon's work for the purpose of ensuring that the work is undertaken in accordance with City procedures and that appropriate and reasonable assumptions are utilized. A traffic analysis prepared by a traffic consultant is not made available to the public until the City has completed its independent review and has determined that the analysis is objective and meets City standards.

- Comment 40-C** In the last five years that Hexagon has done environmental studies and EIR's, has Hexagon ever concluded that there would be adverse traffic impacts? Has Hexagon ever prepared a report that did not endorse new development?
- Response 40-C** Many of the traffic analyses completed by Hexagon have determined that significant adverse traffic impacts would result, which is what their traffic report for the EEHVS concludes. Neither traffic reports nor EIRs endorse or oppose a project. The job of an EIR is to simply provide objective information as to the likely environmental effects of a project. It is the job of the decision-making body (in this case, the San José City Council), to weigh that information, along with other factors, in deciding whether to approve, modify, or deny a project.
- Comment 40-D** Has there been any investigations of Hexagon and any of Hexagon's subcontractors in preparing the EIR regarding allegations of incorrect or altered data or assumptions used in their analysis?
- Response 40-D** As noted above, prior to its circulation for public review, the City reviews the Draft EIR, including all of the technical analyses, to ensure that the work is objective and that it represents the City's independent judgment as to the likely environmental effects of a project. This is part of the CEQA process.
- Comment 40-E** What reasons, if any, compelled the City of San José to entertain General Plan Amendments for Evergreen and allow massive development of new and high-density housing? Is the City of San José responding to a statutory requirement? Is the City responding to a voter mandate?
- Response 40-E** Every property owner has the right to apply to the City and request a land use approval such as a change in the General Plan land use designation, a change in zoning, a use permit, subdivision of land, etc. It is the job of the City to review such applications and, ultimately, to decide whether to approve, modify, or deny such requests. In the case of this project, the requested amendments to the General Plan and rezonings originated with the owners of the various opportunity sites. For the reasons stated on page 10 of the Draft EIR, the City decided to evaluate these requests in a comprehensive manner, which led to the creation of the EVP and EEHVS Task Forces.
- Comment 40-F** Did this EIR take into account other developments in North San José? How about the impact of planned or proposed development in South San José in the Coyote Valley area? Silicon Valley businesses are ramping up again: has the increase in traffic due to higher business activity been included in the analysis?

Response 40-F	These and other projects were accounted for in the Draft EIR in Section 7, <i>Cumulative Impacts</i> .
Comment 40-G	Can the City of San José please explain in real simple language how addition of 32,576 new housing (Table 25, Cumulative Scenario V) in Evergreen translates into "would not cause significant adverse traffic impacts" in page 119, Impact of EEHVS Network Changes?
Response 40-G	[Note: This comment is referring to Appendix E of the Draft EIR, not the main EIR text.] The conclusion on page 119 is referring to only the effect of downgrading certain roadways in Evergreen, not to the effects of the cumulative increase in housing units citywide. The traffic report concludes (on page 108) that the effect of the cumulative increase in housing units would be significant.
Comment 40-H	Has this EIR been reviewed by an impartial knowledgeable transportation? To what extent have the assumptions used in the EIR been validated by an official of San José?
Response 40-H	Please see Responses 40-B and 40-D, above.
Comment 40-I	Figure 8, Trip Distribution Arcadia Regional Retail, shows a 35% increase in traffic along East Capitol Expressway, how could this be classified as "not causing adverse traffic impact"?
Response 40-I	This comment is incorrect. The traffic report, which is summarized in Section 4.2 of the Draft EIR, does conclude that traffic impacts along the Capitol Expressway corridor will be significant.
Comment 40-J	Have any of the Hexagon consultants driven northbound on 101 from Capitol Expressway to the San José Airport at peak morning commute hours? Would any of the developers buy a house in Evergreen and live here, if they have to commute to work using 101? How many Evergreen residents who would not materially benefit from the Evergreen massive development have said "There is no adverse traffic impact"?
Response 40-J	The Draft EIR reports that impacts along U.S. 101 would be significant (see Table 27). Further, pages 154-155 of the Draft EIR state that a number of traffic impacts would be both significant and unavoidable.
Comment 40-K	Why does the EIR use acronyms that mask the real meaning of the impact? For example, "The level of service at the intersection degrades from an acceptable LOS D under background conditions to an unacceptable LOS E or F..." on page

42. Will someone in authority please stand up and say directly "The traffic is bad now, wait till we build another 32,576 new housing in your area, then you will appreciate what real traffic jams are."

Response 40-K The intent of the conclusions found on pages 154-155 of the Draft EIR is to clearly and directly provide the reader with the "bottom lines" regarding various traffic impacts. Similarly, pages S-4 and S-5 of the Summary of the Draft EIR contain text in bold type that states that a number of traffic impacts of the EEHVS will be both significant and unavoidable.

Comment 40-L What ordinance of San José decreed that residents should only complain if the LOS degrades to E or F? Has this statute been approved by the San José Council? Was it signed by the Mayor of San José? Was it approved by the voters of San José via an initiative?

Response 40-L The traffic operations goal of LOS D has been part of the San José General Plan for at least several decades. The goal has been reaffirmed by the City Council on numerous occasions, most recently in 2005 when it adopted the current LOS Policy. The current Evergreen Development Policy (EDP) uses the LOS D concept; it was adopted by ordinance by the City Council.

Comment 40-M Has the San José Council considered a moratorium on new development until a comprehensive transportation plan is prepared, presented to the residents and approved by the residents of San José? At minimum, the idea of LOS E or F should be explained in simple language so that San José residents can vote on it and make it a proper and legitimate statute and thereafter accept it as a way of life.

Response 40-M No moratorium has been considered for the reason stated in this comment. As noted in the previous response, the traffic goal of LOS D has been part of the San José General Plan for several decades. Each time the City undertakes a comprehensive update of the General Plan (the most recent being in the early 1990s), it conducts a broad review of all policies and goals. Numerous public workshops and meetings are held to obtain community input on these issues.

Comment 40-N I drive everyday from Evergreen to Great America Parkway, a distance of roughly twelve miles. It takes me forty minutes on a good day to over an hour and a half with just a minor accident on 101. LOS E or F is not acceptable. Even LOS D is not acceptable if this assessment is made with the most optimistic traffic assumptions. Our quality of life in Evergreen is at stake, and so is the quality of life of anyone who has to commute to go to work. And

traffic is just the tip of the iceberg: congestion in our schools, parks, lining up everywhere just to buy medicine, groceries - the list goes on.

Response 40-N This comment states the opinion that living with LOS E or F is unacceptable with regard to the quality of life for area residents. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 40-O The East Hills Vision Strategy EIR is a disservice to the residents of Evergreen and to the people of San José. The EIR did not speak the truth, instead, it used doctoral dissertation language to hide the truth. It is an insult to the people who will have to live and suffer its consequences.

Response 40-O This characterization of the EIR is not factually supported. For the reasons provided in the above responses, the EIR objectively and accurately discloses the environmental impacts of the proposed EEHVS, as required under CEQA.

Comment 40-P There is no compelling reason why the Task Force, the Department of Planning, and the members of the San José Council have to approve it. On the contrary, there is every reason to let the General Plan remain as it is. I ask the San José Council members to please think of San José residents who have to work, commute to work, bring their children to school, and live in the neighborhood every day. Ask for our input and we will tell you our simple concerns. We do not have the graphs, tables, models, or the fancy language to say what we mean. But we know what it is to stand in line to get gas and still have to make our child's dental appointment during peak commute hours. Thank you.

Response 40-P This comment states the opinion that the proposed EEHVS should not be approved. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #41: MICHAEL MAO

Comment 41-A I don't think the City of San José should approve more of these proposals before it improves the traffic system in that area. Evergreen area has been developed in a fast pace during past ten years, but the highway system doesn't catch up the

local development. That is why Hwy 101 is always jammed between before Tully and Capitol Expressway, and is always packed up during weekend since the AMC built a new theater in Eastridge Mall in Evergreen Area. I think both City of San José and Caltrans should fix the traffic problem before further develop the area. Many people don't want to move into Evergreen area simply because of the traffic problem.

For the short term, one thing Caltrans can do is to separate the exits for Capitol Expressway and Yerba Buena on 101 South. So that the traffic won't so jammed in that area. For the long term, I am sure that both City of San José and Caltrans can make a better urban planning for Evergreen Area.

Response 41-A

The intent of the proposed EEHVS is to phase the planned roadway improvements with the construction phases of development. In that manner, roadway improvements would be in place prior to, or concurrent with, various phases of development. A draft of the proposed phasing plan is found in Appendix B of the Draft EIR.

The separation of the Capitol and Yerba Buena exits referenced in this comment are part of the planned improvements to U.S. 101. Please see Page 61 of the Draft EIR for details regarding these improvements.

**RESPONSES TO COMMENT #42:
LINDA MONTAGANO**

Comment 42-A

I have read the summary of the EIR and would just like to state, for the record, that I can't believe that any person in their right mind would think a project that causes "significant unavoidable impacts" on air quality, traffic and other cumulative impacts could be a good thing. Particularly, it scares me to think that we are accepting Asthma, Allergies and COPD as common, every day medical issues for persons who have never had these problems and we continue to ignore potential causes and even add to them.

Response 42-A

The City Council is required to take the information contained in the EIR into account during its decision-making process on the EEHVS. A project that has one or more significant unavoidable impacts can be approved. In such cases, however, the decision-making body must adopt a "Statement of Overriding Considerations." In that document, the decision-makers must state the reason(s) that support their approval of such a project. This is consistent with the intent of CEQA, which "requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project

against its unavoidable environmental risks when determining whether to approve the project.” (CEQA Guideline §15093)

**RESPONSES TO COMMENT #43:
AL MUNOZ**

- Comment 43-A** Traffic study does not include White Road from Martin to Story Road. Also not included is Story Road from White Road, west to Capitol Expressway. This section of roadway is within the EEHVS boundaries and will be heavily impacted by the additional traffic generated by new homes and business.
- Response 43-A** As stated on page 121 of the Draft EIR, since intersections are a key factor in determining the capacity of local streets, the procedures adopted by the City and the Santa Clara Valley Transportation Authority focus on AM and PM peak hour operations at intersections. Intersections within these roadway segments *are* included in the traffic study, as shown on Figure 20 of the Draft EIR.
- Comment 43-B** In addition what traffic calming measures will be required in this area? What roads will require additional lanes? Will new signal lights have to be installed? What others changes that should be considered to lessen the traffic impact?
- Response 43-B** Various roadway improvements are planned to occur irrespective of the EEHVS; these improvements are listed in Table 24 on page 130 of the Draft EIR. The list of roadway improvements to be completed as part of the EEHVS is contained in Table 14 on page 58 of the Draft EIR.
- Comment 43-C** Additional freeway lane: One additional freeway lane (one mile) to relieve congestion on feeder streets/ramps is clearly not enough. It will move the stopped traffic off the feeder ramps/streets only to have them waiting on the freeway. In my opinion, a much more dangerous and frustrating situation.
- Response 43-C** This comment is correct in that the proposed improvements to U.S. 101 will not be sufficient to fully relieve all existing or future peak commute congestion. The proposed improvements, which have been identified as a priority by the City, VTA, and Caltrans, will nonetheless result in substantial improvements to freeway operations.
- Comment 43-D** Public Transportation, Bus and LRT: In order to make this puzzle happen we must know how many changes will have to happen to our Public Transportation System and also is the money available. We cannot build this many homes, at this density, and not provide adequate transportation. In order to make informed

decisions on the properties, in this study we must know with as much accuracy as possible, if there is funding for transportation changes and if yes, when will it be available? If the homes are built and the road/public transportation improvements cannot happen for a few years we will have a very big “mess.”

Response 43-D

It is the City’s intent that planned transportation improvements keep pace with the completion of new development. To achieve this objective, a phasing plan will be part of the revised Evergreen Development Policy (EDP). A draft of the phasing plan is contained in Appendix B of the Draft EIR.

**RESPONSES TO COMMENT #44:
DEEPAK NADIG**

Comment 44-A

I wanted to write a note mentioning that the traffic has been rising at Evergreen, and leaving for work before 9AM is quite impossible, due to waits at ramp entrance to 101N from Yerba Buena. And the traffic is worse on the way back from work at around 7 PM. And, with the proposed housing for more than 2000+ homes, this will get even worse, and might make existing home owners look for different locations for their own home. Since Evergreen is still developing, we do have a chance to taper off number of homes, increase parks, increase technical business establishments, build better schools. And improve the on and off exits to 101. Hope the decision for additional housing will be re-considered; so, as to not suffocate already existing home owners.

Response 44-A

This comment states the opinion that traffic congestion has been increasing and will worsen if the EEHVS is approved, and therefore additional housing should not be approved. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #45:
CAROLINE NAVARRO**

Comment 45-A

How high in stories will the housing be on the Arcadia property? And how high will the housing on the golf course be? How high can buildings be as far as safety for the airport flight path?

Response 45-A Buildings on the Arcadia property are proposed to be up to six stories in height, which equates to approximately 90 feet. As described on page 104 of the Draft EIR, the ALUC height limitation for the Arcadia property -- which is under the direct flight path for nearby Reid-Hillview Airport -- is approximately 280 feet above mean seas level (msl) at the most restrictive location. Since the elevation of the property is approximately 140 feet msl, the tops of 90-foot buildings would be 230 feet msl.

Buildings on the Pleasant Hills Golf Course property will be up to two stories in height over partially depressed parking.

Comment 45-B Will the single-family homes in Meadowfair be able to see the hills?

Response 45-B The Meadowfair neighborhood is adjacent to the western boundary of the Arcadia property. As stated on page 266 of the Draft EIR, buildings with 6-story heights would likely block existing views of the scenic Diablo Range foothills and mountains from various locations in the adjacent single-family neighborhood to the west.

RESPONSES TO COMMENT #46: ANTONIO PEREZ

Comment 46-A We had a perfect set-up with Hillview Golf Course buffering the airport. Eastridge Shopping Center ruined that set-up. Zoe Lofgren (then) and now Blanca Alvarado want to close the airport (another screw-up). The only logical use for Pleasant Hills Golf Course - leave it as a golf course. We have too much congestion: a) too many homes, b) too much traffic, c) high demand on electricity (brown-outs), d) high demand on water, e) high demand on sewage treatment, f) high demand on recycling, g) high demand on garbage dumps, etc.

Response 46-A This comment states the opinion that the Pleasant Hills Golf Course property should be left as a golf course. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #47:
PHILIP REYNOLDS**

Comment 47-A In reading the EIR summary I noticed that it stated that this was the vision of the "CITY". I would think that the "CITY" as an entity could not have a vision, as it is not human. I believe that the citizen's of the "CITY" have a vision, would be more accurate, but only if the citizens were a part to the development of the "VISION." This finding leads me to question is this really the vision of the citizens of the City of San José, or is this the vision of the bureaucrats driven by the almighty dollar of the developer.

Response 47-A Based upon events that occurred in the 2001-2003 time frame, such events described on page 10 of the Draft EIR, the City decided to undertake a comprehensive look at the Evergreen • East Hills area, so as to develop a community-based vision regarding future development and the future character of the area. This led to the creation of the Evergreen Vision Project Task Force in 2003, which was expanded in 2005 by the City Council and is now known as the EEHVS Task Force.

Comment 47-B In my opinion as a lifelong resident of this valley, the least amount of development in the Evergreen Hills would be best for the City, and for all the residents of this valley as a whole. We are quickly becoming another LA Basin and there is no need for another LA. One is more than enough. The green hills surrounding this valley are what make this valley so desirable. Please don't ruin that unique feature all in the name of money. It's really not worth it.

In closing, I will say that I know my words will go unheeded as the dollar speaks louder than I, but maybe in 50-60 years from now, you and I will be long gone, and our grandchildren will ask, why were these hills built on? They must have been beautiful and green; the answer - not as green as the dollar.

Response 47-B Development that would occur under the EEHVS would be within the City's Urban Growth Boundary and Urban Service Area. No development is proposed on the hills located to the east of these lines.

This comment states the opinion that the least amount of development would be preferable for the Evergreen area and the City as a whole. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #48:
NITIN SALUNKE**

Comment 48-A I strongly believe that the proposed project(s) will negatively affect the Evergreen neighborhood in multiple ways such as 1) Traffic, 2) Environment, 3) Ability of the infrastructure to sustain the additional population. Further, my comments pertain to the possible housing projects regarding would include up to 5,700 new residential units in the Evergreen*East Hills area. I wanted to express my concern that several areas such as the traffic congestion issue, erosion of the quality of life due to increased population density is not adequately addressed. Hope that you will not go with the 5700 + unit proposal.

Response 48-A One part of this comment states that issues related to traffic impacts and increases in population density are not adequately addressed. The comment does not provide the reason(s) for such a statement and, therefore, no specific response can be made. The City notes, however, that the EIR contains a detailed traffic analysis of each EEHVS scenario, as well as analyses of other quality of life issues such as noise, aesthetics, air quality, loss of open space, impacts to trees, etc.

Another part of this comment states the opinions that 1) the project will adversely impact the Evergreen area in multiple ways, and 2) that the 5,700-unit scenario should not be approved. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #49:
J. P. SAMALA**

Comment 49-A It my sincere opinion that we can not build 3,000-5,000 new homes in Evergreen area for few simple reasons listed below: 1) Very bad commute due to overcrowded local roads and highway, 2) Schools don't have capacity to absorb the new students, 3) 4 acres allocation for a school? I haven't seen such a small school, 4) There won't be any parks close to this community, 5) elimination of burrows etc. for wild habitat. This would create big imbalance in the wildlife ecosystem. Please consider not building any new homes in this area and use this area for a park and few homes or commercial development.

Response 49-A This comment states the opinion that the City should not build any homes in this area. The comment is noted for the record and will be considered by the City

Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #50: SHAWNA SANDERS

Comment 50-A Why didn't the traffic study include more intersections with stop signs, not just lighted intersections? Along Flint Avenue next to the golf course, at peak times it is at a standstill! It is not in the study. Too many intersections were absent from this study. The amount of traffic generated from this development will cripple the infrastructure!

Response 50-A The City's thresholds of significance, level of service policy, and the EDP are focused on signalized intersections since those intersections are representative of traffic conditions during periods of peak demand. This is the reason that the EIR traffic analysis focused on signalized intersections. This does not mean, however, the non-signalized intersections are ignored. Apart from the EIR traffic analysis, an operational analysis was prepared which, in part, determines whether projected traffic volumes at non-signalized intersections warrant the installation of traffic signals. The operations analysis for the EEHVS can be reviewed online at the following address:

www.sanjoseca.gov/Planning/evergreen/tiaopan.asp

As part of the EEHVS, a number of intersections will be signalized; a preliminary list of which is included in Table 14 of the Draft EIR, revisions to which are shown in Section 5, *Draft EIR Text Revisions*, of this document. Per Table 14, a traffic signal will be installed at the intersection of Flint Avenue/Marten Avenue/Mt. Rushmore Drive.

RESPONSES TO COMMENT #51: TONY SEEBACH

Comment 51-A First, from Section 1, Introduction, page 7 says "However, the revised EDP stated that full construction of the 4,209 dwelling units would require the following traffic improvements: Widening of Capitol Expressway to six lanes between U.S. 101 and I-680:" This is incorrect. The EDP required Capitol Expressway to be eight lanes from U.S. 101 to I-680 and was mostly completed except for each end which was left at six lines due to operational issues, according to San José Department of Public Works.

- Response 51-A** This comment is correct. The July 2, 1991 version of the EDP stated that the widening of Capitol Expressway to six lanes was required, plus HOV lanes between I-680 and U.S. 101. The text has been corrected. See Section 5, *Draft EIR Text Revisions*.
- Comment 51-B** Second, I do not agree with the analysis in the EIR beginning on page 152 which lists Capitol Expressway and Silver Creek Road, Capitol Expressway and Ocala Avenue, Capitol Expressway and Story Road, Capitol Expressway and Capitol Avenue and San Felipe Road and Yerba Buena Road and says "The following text describes mitigation measures for the five significantly-impacted intersections. For the reasons described in the text, none of these measures are considered feasible." Feasible means possible; feasible does not mean difficult or expensive. Improvements listed here and more are possible and should be done for Evergreen traffic to not be much worse than it is today. If other constraints such as water, power or sewer, could not be mitigated, development would not be allowed to proceed. Should traffic limitations be different?
- Response 51-B** CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (CEQA Guidelines §15364) In this context, the phrase "not considered feasible" means that the City has determined that the adverse environmental impacts of constructing the mitigation outweigh the benefit provided by the additional traffic lane(s) at these intersections. In some cases, such as at Capitol/Silver Creek, the mitigation would be ineffective due to proximity to the 101/Capitol interchange; see page 152 of the Draft EIR for details. In other cases, such as at Capitol/Ocala, the mitigation would require the acquisition of 13 residences and would interfere with future LRT operations.
- As part of its decision-making process on the EEHVS, the City Council will need to weigh adverse impacts such as increased traffic congestion against the benefits provided by the project.
- Comment 51-C** If the 101 exit to Capitol Expressway is improved to reduce the frustrating and dangerous backup currently experienced during PM commute and all improvements possible are not done at Capitol Expressway and Silver Creek Road, traffic will continue to back up onto the freeway. This intersection and others on the Expressway may require grade separation to eliminate traffic problems now that will become much worse if this development is permitted. This will be expensive, but is necessary to avoid traffic ruining Evergreen.

Similar situation also will occur at Capitol/Capitol and Capitol/Story intersections. One of the reasons given for not being able to improve these intersections is it will "would interfere with LRT future operations." Since LRT is not yet being built here, it would be much easier and less expensive to design and build LRT and roads to handle traffic, rather than finding they need modification that will be more disruptive and expensive. Traffic improvements that should have been done for the ESP and are necessary for any additional development will cost a lot and require additional right-of-way - that does not make them infeasible. If improvements cannot be done, additional development should not be allowed. Improvements to handle development are possible, but will be costly and may a lot of the profit the developers would like to receive. Another upcoming problem for Capitol/Story is that Home Depot is replacing Mervyn's and will draw much more traffic to this area.

Response 51-C

Given an unlimited availability of land, all traffic impacts could theoretically be eliminated by simply adding more traffic lanes, building grade separations, etc.. However, in the Evergreen area (and in most urbanized areas), there comes a point where additional widening of roadways and/or grade separations cannot be constructed without impacting the adjacent land uses such as residences and businesses. In such cases, a decision-making body like the San José City Council must balance the benefits provided by the transportation improvement against the adverse impacts of the improvement on the adjacent land uses and neighborhoods.

The opinion in this comment that additional development should not be allowed unless the necessary traffic improvements needed to relieve congestion are implemented, is noted for the record. It will be considered by the City Council as part of its decision-making process on the EEHVS

Comment 51-D

Finally on page Summary S-6 section 4.2.6.2, development "will result in significant traffic impacts on up to 15 segments of the U.S. 101, I-280, and I-680 freeways. U.S. 101 and I-280 and I-680 Northbound in the morning and Southbound in the evening are now over capacity as seen by the reduced speeds. The last paragraph of this section ignores that freeway traffic will get worse since problems on and exiting freeways will not limit themselves to identified segments. Limited improvements, such as additional merging areas, only move the problem further down the road from where it grows back worse.

Response 51-D

The intent of the last paragraph of Section 4.2.6.2 is to provide information that, although the project is not mitigating for the significant freeway impacts identified in the Draft EIR, it is funding substantial improvements to U.S. 101 between I-280/680 and Yerba Buena Road. As noted in the discussion of

cumulative traffic impacts (see page 336), the *Valley Transportation Plan 2030* recognizes that increases in highway capacity will be inadequate to accommodate projected growth. This is information that will be considered by the City Council as part of its decision-making process on the EEHVS.

Comment 51-E Adding thousands of more homes in Evergreen along with those being considered in Coyote ensures San José will be held up as an example of dumb growth masquerading as smart growth. If developers and the City will not mitigate the impact of development, the development should not be allowed. It is not enough to say traffic mitigation is not feasible, when it can and must be done.

Response 51-E This comment states the opinion that development should not be approved unless impacts are mitigated. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #52: PAULA SHELTON

Comment 52-A I am strongly opposed to making our neighborhoods & streets more congested with too much home building for the sake of "more amenities". This would cause negative impacts on traffic & pollution. We don't need your so-called "more amenities" if it means degrading our quality of life in the Evergreen specific plan area. Also I am opposed to high density housing in Evergreen Hills area since it does not tie into the current neighborhood homes.

Additionally, like others living in EVS plan area and San José, it would really help the entire City to put a HOLD on any future building (Moratorium) until we have a long, hard look and improvement of the already existing traffic congestion problems on the roads & freeways. We need real solutions to current problems, without destroying the quality of life here in San José. Any new home building (along with no reverse commute adding jobs to where people live) would be harmful to the overall quality of live in San José. Please do not destroy San José for the sake of developers & some movers and shakers.

Response 52-A This comment states the opinions that 1) the provision of amenities does not make up for the adverse effects of development, and 2) the City should put a hold on more development until it finds solutions to current traffic problems. The comment is noted for the record and will be considered by the City Council

as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

RESPONSES TO COMMENT #53: MICHAEL SHIEH

Comment 53-A I live directly across from the Evergreen Valley College property. I'm very concerned about several items stated in the EIR. The proposal for high density housing development at Evergreen Valley College will have a negative impact on the people who are living in the neighborhood.

I am concerned that the developments will significantly impact the traffic delays at the intersection at San Felipe and Yerba Buena. At times in the morning (Evergreen College student commute), and during PM traffic, I have perceived to an LOS of "F". I have personally seen traffic backed up on Yerba Buena beyond the left turn lane, and concurrently at the feeder entrance into the college on San Felipe, traffic backed out onto the street. I would estimate that in this instance in the morning, there are over 100 cars queued. I am not convinced that the mitigating measures (adding an additional left turn lane) can accommodate the increased load due to the new developments.

Response 53-A The San Felipe/Yerba Buena intersection is presently operating at LOS 'C' in both the AM and PM peak-hours. As noted on page 65 of the Draft EIR, the EEHVS will implement the following improvements at the San Felipe/Yerba Buena intersection under Scenarios II-VI: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added, 2) a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added, 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended.

With the above-listed improvements in place, only Scenario VI would significantly impact this intersection; see Table 26 on page 135 of the Draft EIR for the levels of service under each scenario.

Comment 53-B I am concerned about the height of the building proposed on the Evergreen College site. A building height of 60 feet does not blend in with the surrounding neighborhood. Also, this height is in violation of City building height standards in the area.

Response 53-B This comment is correct in that 60 feet exceeds the City's existing 50' building height limitation for this site. Therefore, as noted on page 55 of the Draft EIR, should the Council decide to allow buildings with heights above 50 feet, the text of the General Plan will need to be amended to allow the greater height.

The analysis in the EIR (see page 268) concluded that the proposed 60-foot buildings would not result in a significant visual or aesthetic impact because those taller buildings would be located in the interior of the site. The buildings along the north boundary closest to the neighborhood to the north would have heights of one or two stories. This conclusion notwithstanding, the opinion expressed in this comment that buildings with 60-foot heights would not blend into the neighborhood is noted for the record.

Comment 53-C I am concerned about the increased noise levels surrounding the Evergreen College area. Besides the noise from increased traffic, the noise from commercial traffic such as garbage trucks (more frequent than residential), and delivery trucks will exceed City noise level standards in the area.

Response 53-C Section 4.3 of the Draft EIR analyzed the potential noise impacts associated with the project, including impacts relating to noise from increased traffic. The EIR determined that increased traffic noise would result in significant impacts along a number of roadways, including Yerba Buena Road in the vicinity of San Felipe Road. EIR Table 35 lists all of the roadway segments in the project study area that would be significantly impacted. Mitigation measures are proposed that would reduce these impacts, although not to a level below significant.

Noise from the proposed commercial uses will not be significant because it will be designed to comply with the City's Commercial Design Guidelines, which include measures (e.g., setbacks, shielding of mechanical equipment, etc.) to minimize noise impacts and other potential land use conflicts with adjacent or nearby residential uses. There is also an existing shopping center on the corner of San Felipe and Yerba Buena Roads, immediately adjacent to the area proposed for development on the Evergreen Valley College site, so noise associated with commercial uses (e.g., garbage pickup) is already part of the ambient noise environment. Finally, it should be noted that the City has no noise standards for delivery trucks.

Comment 53-D I am concerned about the density of housing in the Evergreen College area. The proposals of 14 living units per acre far exceeds the housing density in the surrounding area. Further, this density will create localized traffic congestion in the area. The intersection at San Felipe and Yerba Buena will become a "choke" point for traffic. As mentioned above, I've personally seen approximate

100 cars queued up. Such dense development will only great increase this problem.

Response 53-D This comment states the opinion that the density proposed on the Evergreen Valley College site will further worsen the existing traffic congestion. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 53-E The proposal to redo the current high school boundaries is unacceptable. Evergreen Valley High School is already over capacity. You must know that the issue of school boundaries is a hot topic. Are we expected to send our children to inferior schools far away from home?

Response 53-E This comment states an opinion regarding the potential adjustment of high school attendance boundaries by the ESUHSD. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

Comment 53-F The proposed 6 story buildings at EVC will be unsightly and additional residents will cause increased traffic congestion on San Felipe Rd/Yerba Buena Rd. and 101 on ramps and off ramps.

Response 53-F As a point of clarification, the heights of buildings proposed on the Evergreen Valley College property would not exceed four stories. Please see Figure 12 of the Draft EIR.

The project will increase the number of vehicles using the San Felipe Road/Yerba Buena Road intersection. The project will, however, construct the following improvements at that intersection: 1) a second left-turn lane from eastbound Yerba Buena Road to northbound San Felipe Road will be added, 2) a second left-turn lane from westbound Yerba Buena Road to southbound San Felipe Road will be added, 3) a second left-turn lane from southbound San Felipe Road to eastbound Yerba Buena Road will be added, and 4) the northbound left-turn pockets will be extended.

Comment 53-G Our household commutes to Sunnyvale via 101 everyday. The stretch of freeway on SB 101 from Tully Road to Capitol Expressway is almost to the unbearable limit. Please seriously consider the concerns of the Evergreen

residents who endure the commute so that we can come home to the beautiful neighborhood surrounding EVC.

Response 53-G The EEHVS does include substantial improvements on southbound U.S. 101 between Story Road and Yerba Buena Road. See page 61 of the Draft EIR for details regarding the proposed improvements. The comment requesting consideration of the commutes experienced by Evergreen residents is noted.

**RESPONSES TO COMMENT #54:
SARABJEET SINGH**

Comment 54-A I live in Evergreen area close to Evergreen College. I'm writing to you to voice my concerns about the EIR for the Evergreen development plan. I'm very concerned that it'll worsen the traffic conditions around Capitol Expressway and Yerba Buena. I'm also concerned about overcrowding it'll cause in schools. Please do not allow new developments of this density in this area.

Response 54-A This comment states the opinion that a project of this density should not be allowed. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #55:
KULDEEP THIRUMALAI**

Comment 55-A Given zero possibility of growth in the northbound highway 101, why wasn't the traffic LOS from, say Capitol and Silver Creek to Highway 280 interchange considered in the EIR before and after analysis? In other words, with all the proposed increases/modifications to ramps etc., how is this really going to help us in any way, shape or form, if the highway itself is constrained/the bottleneck? It's like creating huge pipes, but the actual water flowing thru a small faucet. Increasing the size of the pipe.

Response 55-A As stated on page 154 of the Draft EIR, the project-sponsored improvements to U.S. 101 will substantially improve traffic operations on the freeway, but will not mitigate the project's significant impacts.

Comment 55-B I submit that Hexagon analysis between 4-6 PM was the absolute **WRONG** timeframe to use for traffic analysis. The worst timeframe is between 5 pm and

7 PM. Just observe highway 101 SB any day to confirm this. I realize the comment in the meeting was the 'worst' hour was taken; what if the traffic between 6PM to 7PM is worse than 5PM to 6PM? The study needs to re-look at this based on the 5-7 PM timing, where the peak traffic actually hits.

Response 55-B Traffic conditions at the intersections were analyzed for the typical weekday AM peak-hour and PM peak-hour of traffic. Although the precise time of the peak-hour varies somewhat from day to day and from one location to another, based on traffic count data collected by the City, the AM peak-hour typically occurs between 7:00 and 9:00 AM, and the PM peak-hour typically occurs between 4:00 and 6:00 PM. It is during these periods that the highest traffic volumes and the most congested traffic conditions occur on an average day. Traffic counts in adjacent periods (e.g., 6:00 to 7:00 PM) are slightly lower.

Comment 55-C Was the value of homes considered anywhere in the EIR, should high density development come around the Evergreen College area?

Response 55-C Impacts on property values are not an environmental impact under CEQA.

Comment 55-D While I understand the EIR is not financial in nature, there needs to be some financial metrics mentioned in the summary that gets presented to show the level of financial investment it will take to 'mitigate' several of the 'significant' issues raised. We need to size this, from a funding standpoint before approving. For instance, if we are unable as a city to fund Fowler Creek Park for 3.5 years, how will we be able to afford all of the investments needed to mitigate issues found in the EIR?

Response 55-D Although this type of information is not part of CEQA, it is important and will be one of the factors to be considered by the City Council. The EEHVS Task Force is presently evaluating some financial information as it formulates its recommendations to the City Council. The information is available on the City's website at the following address: www.sanjoseca.gov/planning/evergreen

Comment 55-E If "do nothing" is 217 units, why is range of options from 3,600 to 5,700? Was a lower number like 1,000 to 2,000 considered? If not, why not?

Response 55-E In addition to the six EEHVS scenarios, the Draft EIR evaluated a "Reduced-Scale Alternative" in Section 6. This alternative was defined as 600 residential units, because 600 units approximates the level of development that could occur without resulting in significant traffic impacts.

Comment 55-F How likely are “possible” investments in transportation? Are these funded under current budget? Does the traffic analysis assume these? Why?

Response 55-F There are a number of roadway intersection improvements assumed to be implemented regardless of whether or not the EEHVS is approved that were assumed to be in place as part of the traffic analysis. Those intersection improvements, which are listed in Table 24 of the Draft EIR. In the unlikely event the improvements were not implemented, the City would need to reevaluate conditions to determine if new impacts would occur.

The transportation improvements to be funded by the EEHVS, which are listed in Table 14 of the Draft EIR, will - by definition - be constructed as part of the project under Scenarios II-VI. These improvements are also assumed to be in place by the traffic analysis.

Comment 55-G How can I be reassured that Hexagon Consultants are truly objective and independent in their study? What was Hexagon’s compensation for this project?

Response 55-G Hexagon has prepared hundreds of traffic analyses for the City of San José and other cities in Santa Clara County and the Bay Area. Like it does for all traffic analyses prepared by any traffic engineering firm, City staff reviews, coordinates, and directs Hexagon’s work for the purpose of ensuring that the work is undertaken in accordance with City procedures and that appropriate and reasonable assumptions are utilized. A traffic analysis prepared by a traffic consultant is not made available to the public until the City has completed its independent review and has determined that the analysis is objective and meets City standards.

Comment 55-H Did the study consider the Yerba Buena to San Felipe turning during peak hours?

Response 55-H Turning movements are factored into the level of service calculations.

Comment 55-I Why is LOS ‘D’ our target and how does this compare to benchmarks in ‘best in class’ cities?

Response 55-I LOS “D” is used by many jurisdictions as the goal/objective for traffic operations during peak hours. The goal of LOS “D” has been a part of the San José General Plan for several decades.

Comment 55-J What timeframe was the traffic analysis performed in (month/year)?

Response 55-J	The preparation of the traffic analysis occurred over many months, commencing in late Spring of 2005.
Comment 55-K	Why is PM analysis 4 PM - 6 PM, not 4 PM - 7 PM, in analysis?
Response 55-K	Please see Response 55-B, above.
Comment 55-L	101 widening contemplated for SB only, NB is not impacted? How is this going to help morning commutes in any manner if freeway lanes are fixed in quantity?
Response 55-L	<p>The proposed improvements to U.S. 101 were developed by Caltrans and the VTA as an outgrowth of VTA's U.S. 101 Central Corridor Study (2003). That study assessed potential improvements to the freeway in the greater Evergreen area, factoring in the cost and feasibility of such improvements. The U.S. 101 Operational Improvements Project (I-280/680 to Yerba Buena Road) underwent CEQA analysis and was approved by Caltrans in 2005. If approved, the EEHVS would fund this project.</p> <p>While the improvements to the freeway would not include any new through-lanes on northbound U.S. 101, northbound operations would be improved with the new on-ramp from Yerba Buena Road.</p>
Comment 55-M	Does trip analysis calculation assume growth in vehicles as more youngsters (high school) acquire cars?
Response 55-M	In the field of traffic engineering, traffic counts are constantly being conducted for the purpose of ensuring that trip generation rates reflect current conditions and behaviors. The City monitors and updates its trip generation rates to reflect the latest information, so that projections of future traffic volumes will be as accurate as possible.
Comment 55-N	Why doesn't this TIA look at point-to-point (e.g., Silver Creek to Great America) in the "before" and "after" analysis?
Response 55-N	The TIA is based upon the thresholds of significance adopted by the City and the Congestion Management Agency. Such thresholds (e.g., level of service, average delay per vehicle, etc.) are those that can be quantified, duplicated, and compared using adopted procedures. Thresholds based on point-to-point travel would be problematic because of the numerous variables encountered in making a typical trip, as well as the fact that there are countless combinations of trip origins and departures.

Comment 55-O	What is driving a change in the 1980 decision the City Council made to focus on industrial growth?
Response 55-O	The requested amendments to the General Plan and rezonings originated with the owners of the various opportunity sites. For the reasons stated on page 10 of the Draft EIR, the City decided to evaluate these requests in a comprehensive manner, which led to the creation of the EVP and EEHVS Task Forces.
Comment 55-P	Any “mitigation” options for significant noise impacts identified?
Response 55-P	Mitigation for significant noise impacts, both short- and long-term, are identified in the Draft EIR beginning on page 168.
Comment 55-Q	What is the final recommendation of the TIA study? Go/No Go/Conditional Go?
Response 55-Q	The TIA does not make recommendations. The purpose of the TIA is to disclose information regarding traffic impacts and mitigation in a factual manner. It is the job of the City Council to consider and weigh the information during its decision-making process on the EEHVS.
Comment 55-R	If energy shortage is projected (verbalized), why isn’t this mentioned in the EIR?
Response 55-R	Section 4.12 of the Draft EIR is devoted to quantifying and discussing the energy impacts of the proposed EEHVS. Mitigation measures are also listed.
Comment 55-S	Cumulative impact is a great idea. Can a metric besides “significant & unavoidable” be used to convey the severity of this impact? What is the bottom line recommendation of the EIR in cumulative/holistic analysis?
Response 55-S	“Significant & Unavoidable” is a term used in CEQA. Its meaning is that it is not possible to avoid a given significant impact if the project is approved. The conclusion of the EIR regarding cumulative impacts is as follows: Cumulative impacts will be significant in the following areas: transportation and traffic, noise, air quality, biological resources, visual & aesthetics, and energy.
Comment 55-T	Is level of smog impact on air quality not studied or deemed to be significant?
Response 55-T	Air quality impacts were determined to be significant; see Section 4.4 of the Draft EIR.

Comment 55-U What is the cost of all the deficiency/risk mitigation? Actions needed and identified? Why isn't this in the EIR? Can the City afford?

Response 55-U The costs associated with implementing all of the mitigation measures identified in the EIR is not known. Such costs would be borne by the project applicants.

**RESPONSES TO COMMENT #56:
TIEN TRINH**

Comment 56-A As concern of another member of Falls Creek neighbors about the impact of the development on traffic, dense environment, I have special concern about the school capacity. As you know, the Evergreen High School is currently overloaded. The bio-department of EVH has to borrow facilities from EVC for students. Is there any solution for this issue yet? More houses, more apartments, that means more students, and this situation becomes worse. This is my big concern.

Response 56-A Beyond the information contained in the Draft EIR, no resolution regarding the issue of school overcrowding has been reached. See also the Master Response for School Impacts & Mitigation on page 7.

This comment states a concern regarding the effect of the EEHVS on schools. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #57:
MELANIE VOLPICELLA**

Comment 57-A Why didn't the company who prepared the report present it?

Response 57-A [Note: This comment pertains to presentations made at the public meeting on the Draft EIR that was held on March 14, 2006.] The findings of the Draft EIR were presented by its preparer, John Hesler of David J. Powers & Associates.

Comment 57-B Who prepared the summary?

Response 57-B The PowerPoint summary was prepared by David J. Powers & Associates, based on the information contained in the Draft EIR.

Comment 57-C	When will the road improvements be made vis-a-vis sale of residential units? Before? After? How long after? If after sale of units, why didn't report include effect without improvements in case they are never made?
Response 57-C	A draft of the proposed phasing of the roadway improvements is contained in Appendix B of the Draft EIR. The intent of the phasing plan is that roadway improvements would be in place prior to, or concurrent with, various phases of development. To ensure that the improvements are made, the City would not issue the building approvals/permits for a given phase of development until it received the funding necessary to construct the identified improvements.
Comment 57-D	What is additional number of cars assumed and rationale?
Response 57-D	The number of vehicle trips to be generated by each of the EEHVS scenarios is shown in Table 25 on page 133 of the Draft EIR. The numbers are based on trip generation rates associated with each of the proposed land uses.
Comment 57-E	What is % of additional housing (maximum)?
Response 57-E	There are approximately 38,500 existing dwelling units in the Evergreen area. If 5,700 additional units were approved/constructed as part of the EEHVS, it would represent an increase of 15%.
Comment 57-F	Must amenities be finalized before project is approved?
Response 57-F	The list of community improvement projects that would receive funding from the EEHVS does not need to be finalized before project approval because those projects are not "mitigation" under CEQA. However, as part of the project approval, it is anticipated that - at a minimum - the City Council will specify the total amount of monies required to be set aside by the project applicants for such purposes.
Comment 57-G	What is average acreage of existing Evergreen schools (elementary)?
Response 57-G	The City does not have precise information on average school size. However, based on rough approximations using aerial photographs, it appears that many of the elementary school sites in Evergreen are in the 8-9 acre range. For more information on school size, please see the Master Response for School Impacts & Mitigation on page 7.
Comment 57-H	When faced with so many "infeasible mitigations" in traffic, what rationale can City use to approve the project?

- Response 57-H** A project that has one or more significant unavoidable impacts can be approved. In such cases, however, the decision-making body must adopt a “Statement of Overriding Considerations.” In that document, the decision-makers must state the reason(s) that support their approval of such a project. This is consistent with the intent of CEQA, which “requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.” (CEQA Guideline §15093)
- Comment 57-I** What assumptions for road improvements would have been made if No Project?
- Response 57-I** These assumptions are listed in Table 24 on page 130 of the Draft EIR.
- Comment 57-J** Why have the amenities been listed?
- Response 57-J** The amenities are listed for the purpose of providing as much information as possible regarding those projects that may receive EEHVS funding.
- Comment 57-K** Why wasn’t Aborn & Capitol listed as significant and infeasible?
- Response 57-K** This intersection will not operate below LOS “D” under any scenario and, therefore, would not be significantly impacted by the project. As a point of information, there are planned improvements to this intersection unrelated to the EEHVS (see Table 24). In addition, the EEHVS would construct further improvements, as described on page 66 of the Draft EIR.

RESPONSES TO COMMENT #58: IKE WHITE

- Comment 58-A** Concerned about contamination on Pleasant Hills property in case requirement for school to be constructed. This item should be shown in the EIR (important).
- Response 58-A** Page 259 of the Draft EIR lists the mitigation measures that will occur on the Pleasant Hills Golf Course property regarding the disposition of soils that contain elevated levels of arsenic and/or lead. Such measures will comply with residential and school siting standards, as applicable.
- Comment 58-B** Mt. Pleasant Elementary School District shows 0-276 student increase...think we need to review this one as far as # of units generating a new school.

Response 58-B An error was discovered in Table 61 of the Draft EIR, wherein the numbers of single- and multi-family units under each scenario were reversed. This error, which has been corrected (see Section 5, *Draft EIR Text Revisions*), resulted in an underestimation of the number of students that would attend MPESD schools under the various EEHVS scenarios. The correct estimates range from a low of 248 students under Scenario II to a high of 376 students under Scenarios V and VI. The corrected numbers do not change the conclusion stated on page 306 of the Draft EIR. The conclusion, which is based upon information provided by the MPESD, is that a new school would be needed.

**RESPONSES TO COMMENT #59:
DENNIS WONG**

Comment 59-A During construction, the construction vehicles damaged the roads, will the developers be responsible to repair the roads to a condition as it was prior to its usage? Example: San Felipe Road sustained road degrading conditions between Delta & Yerba Buena Road over the past 5 years (development of Cortese orchard property, Evergreen Valley College Shopping Center, B. Swenson Retirement Center). This has not yet been repaired.

Response 59-A The City's policy is to hold developers responsible for repairing or paying for damage to public roadways.

**RESPONSES TO COMMENT #60:
KENT WU**

Comment 60-A Do we know which scenario is most likely to be chosen at this moment?

Response 60-A There is no indication as to which scenario will be approved by the City Council.

Comment 60-B I know after traffic improvements on 101, the waiting time will be similar or better than the current condition. My question is, however, during the construction of the improvements, I assume 101 will be heavily affected, so how long will this construction last and how to mitigate that?

Response 60-B The following is excerpted from the Initial Study prepared by Caltrans on the U.S. 101 Operational Improvement Project that would be funded by the EEHVS:

“Except for temporary off-peak lane closures, the same number of traffic lanes will be maintained on U.S. 101 and local streets during the construction period. Narrowed lanes on U.S. 101, Tully Road, and Capitol Expressway through the construction zone will be likely. However, except for rare occasions, none of these facilities will be shut down entirely. On those rare occasions when a construction activity requires the closure of U.S. 101 or a cross-street, such closure will receive advance warning and will be limited to a period when traffic volumes are light (e.g., 11 PM to 5 AM). An example of such an activity would be when temporary beams are being placed or removed over U.S. 101 to erect the Tully Road and Capitol Expressway overcrossing falsework. Temporary detours (with signage) will be provided for these closures.”

**RESPONSES TO COMMENT #61:
NADINE YOTHER**

Comment 61-A Now that I and others have given up evenings giving our concerns and ideas of what will be developed on the golf course, will any of their ideas be used or does the developer (KB Homes) just do as they proposed?

Response 61-A The EEHVS Task Force, the San José Planning Commission, and - ultimately - the San José City Council will consider all public input, as well as the information contained in the EIR, when making recommendations and decisions about the proposed EEHVS.

Comment 61-B We do need open space. Townhouses could be for seniors. The parks and ball fields should not be attached to the school.

Response 61-B This comment states opinions regarding the proposed project. The comment is noted for the record and will be considered by the City Council as part of its decision-making process on the EEHVS. No further response is required as the comment does not raise any environmental issues or questions about the adequacy of the Draft EIR.

**RESPONSES TO COMMENT #62:
GINA ZENDEJAS**

Comment 62-A The burrowing owl has been found on the Arcadia site, however the habitat has been disrupted. Example: dirt has been turned/disc'd. Tall grasses have been cut. Nesting time for owls is Spring-Fall and for every 1 owl = 1 acre of land. Who is responsible for the land/property and deliberately disturbing the habitat?

Response 62-A The property owner is responsible for the site, including activities that take place. The owner is aware of the City's policy that restricts the discing of vegetation on certain lands (Ordinance 26419).

Comment 62-B How can the residents be sure that the owls from the Arcadia site have not relocated to the PHGC, and if so, will the same disregard to their habitat be followed?

Response 62-B The biological surveys undertaken as part of the preparation of the EIR found no evidence of the presence of burrowing owls on the Pleasant Hills Golf Course property. See Appendix H of the Draft EIR for details.

RESPONSES TO COMMENT #63: JIM ZITO

Comment 63-A Can project be approved if assumed traffic improvements are not made?

Response 63-A There are a number of roadway intersection improvements assumed to be implemented regardless of whether or not the EEHVS is approved that were assumed to be in place as part of the traffic analysis. Those intersection improvements, which are listed in Table 24 of the Draft EIR. In the unlikely event the improvements were not implemented, the City would need to reevaluate conditions to determine if new impacts would occur.

The transportation improvements to be funded by the EEHVS, which are listed in Table 14 of the Draft EIR, will, by definition, be constructed as part of the project under Scenarios II - VI. These improvements are also assumed to be in place by the traffic analysis.

Comment 63-B Does EIR address partial buildout of industrial site?

Response 63-B Partial buildout of the industrial site is not one of the scenarios studied in the EIR. However, during its decision-making process, the City Council could decide to approve a level of development that is similar to that suggested in this comment. The EIR provides the Council with the flexibility to make such a decision, with the only caveat being that the Council could not approve a project where environmental impacts would be *greater* or *substantially different from* that disclosed in the EIR.

Comment 63-C How is project/EIR affected if LRT is not built for 15-20 years?

Response 63-C The EIR analyzes traffic impacts under the assumption that the approved LRT extension to Nieman Boulevard is in place. From a traffic perspective, this is a “worst-case” scenario because the LRT project will remove one lane in each direction on Capitol Expressway between Nieman Boulevard and I-680. Further, to be conservative, no diversion of auto trips to LRT is assumed.

If for some reason the LRT extension is delayed or abandoned, traffic impacts would be *reduced*, compared to that shown in the EIR.

RESPONSES TO COMMENT #64: ANONYMOUS

Comment 64-A Which intersections on Capitol Expressway are or will be driven to traffic worse than LOS D by removal of HOV lanes for LRT right-of-way?

Response 64-A A scenario that assessed the effect of removing HOV lanes for the LRT, assuming all other factors were to remain unchanged, was not evaluated in this EIR. The reader is referred to the April 2005 Final EIR for the Capitol Expressway Corridor Project, which was prepared by VTA, for that information.

Comment 64-B Why were afternoon traffic counts only done from 4-6 pm? Impacted traffic continues well after 7 pm on weekdays.

Response 64-B The traffic analysis is based on the peak hour, defined as the one hour period where traffic volumes have been measured at their highest. That does not mean, however, that the volumes in the timeframes before and after the peak hour are not substantial. As inferred in this comment, and as recognized in many traffic studies, the AM and PM weekday commute periods typically last much longer than the peak hour. This is known as “peak hour spreading,” whereby the length of commute periods increases as people adjust their schedules in an attempt to avoid the worst periods of congestion.

Comment 64-C Why were existing housing allocations (approx. 300 units) not included in the EIR analyses?

Response 64-C Traffic from the existing housing allocations (217 units on the Arcadia property) was included in all six EEHVS Scenarios. See Appendix E of the Draft EIR for a detailed breakdown of trips for each site under each scenario.

Comment 64-D What are the legal distances required between known earthquake faults and developments (Legacy & Berg/IDS sites)?

Response 64-D For major faults designated under the Alquist-Priolo Earthquake Fault Zoning Act of 1972, a 50-foot setback is suggested, but that number can be increased or decreased depending upon site-specific conditions. The closest fault designated under the Alquist-Priolo Act is the Hayward Fault. The proposed developments would not be within 50 feet of this fault.

For other faults (e.g., the Quimby Fault), there are no legally-required setbacks. Setbacks are determined on a case-by-case basis, based on site-specific geotechnical studies. For more discussion on setbacks from faults, please see Response 22-N.

SECTION 5. REVISIONS TO THE TEXT OF THE DRAFT EIR

This section contains revisions to the text of the Draft EIR. Text additions are underlined. Text deletions show the original text with a ~~strikeout~~ running through the part of the text to be deleted.

Page S-5 Under “Land Use”, delete the following:

The EEHVS will result in the loss of 33 acres of Prime Farmland on the Berg/IDS property and 17 acres of Farmland of Local Importance on the Evergreen Valley College property.	If determined feasible, mitigation would consist of replacing impacted farmland acreage on a 1:1 basis. Mitigation is not proposed as part of the project. [Unless Mitigation is Determined to be Feasible & Made a Condition of Approval, Impact will be Significant & Unavoidable]
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Page S-12 Under “Cumulative Impacts”, make the following change:

Cumulative impacts will be significant in the following areas: ~~land use~~, transportation and traffic, noise, air quality, biological resources, visual & aesthetics, and energy.

Page S-13 In Table S-4, under “Land Use”: Change “Loss of Agricultural Lands” from *Significant Unavoidable Impact* to *No Impact* under all EEHVS scenarios.

Page S-16 Under “Areas of Controversy,” modify the text, as follows:

The primary issues raised by EDP-area residents and community leaders during the EEHVS process have been traffic-related concerns. Specifically, there is substantial controversy over whether or not to revise the *Evergreen Development Policy* to allow more traffic into what many view is already a traffic-impacted and congested area. There has also been debate as to whether the roadway improvements proposed as part of the EEHVS will be adequate to offset the impacts of additional development.

Other substantial areas of controversy regarding the EEHVS include the following:

- Impact of the project on nearby elementary, middle, and high schools, including controversy over the adequacy of school impact fees as mitigation, as well as debate over the size of areas being reserved for future new schools.

- Concern over which community amenity projects would be funded by the EEHVS and whether such projects would be constructed in a timely manner.
- Concern that additional development will degrade the quality of life in the Evergreen • East Hills area, especially if development is of a “high density” nature.
- Whether or not to reverse a 1980 decision by the City to designate over 300 acres of land in Evergreen for approximately 10,383 future industrial jobs.
- Loss of open space and impacts to 2,000 - 3,000 trees
- VTA has stated that the proposed densities on the Arcadia property are too low to justify the extension of the light rail transit (LRT) system to Nieman Boulevard.
- The effect on adjacent land uses from proposed 4-story and 6-story buildings on the Evergreen Valley College and Arcadia properties, respectively.
- Compatibility of proposed development with existing neighborhoods.

Page 7 Modify the bullet at the bottom of the page, as follows:

Widening of Capitol Expressway to six lanes plus HOV lanes between U.S. 101 and I-680;

Page 13 Delete references to LAFCO in Table 2, as follows:

~~Santa Clara County Local Agency Formation Commission (LAFCO): Approve the annexation of the Pleasant Hills Golf Course Property to the City of San José.~~

Page 13 Modify the description of the SCVWD’s role, as follows:

Review hydrologic analysis, water supply assessment, and groundwater management

Page 40 Replace Figure 8 with a new Figure 8, which is shown on the following page.

Page 56 Delete Quimby Road from Table 13.

Insert Figure 8

Page 58 In Table 14, modify the list of intersections where traffic signals will be installed:

Aborn Road/Murillo Avenue	Ruby Avenue/Norwood Avenue
I-680 Ramps (N)/Jackson Avenue	King Road/Everglade Avenue
Quimby Road/Gavilan Drive	Ruby Avenue/Tully Road
Quimby Road/Arcade Drive	Story Road/Clayton Road
Marten Ave./Flint Ave./Mt. Rushmore	Yerba Buena Road/Evergreen Valley College
Aborn Road/Voltaire Street	<u>Quimby Road/Scottsdale Drive</u>
<u>Nieman Blvd/Daniel Maloney Drive</u>	<u>Story Road/Lancelot Lane</u>
<u>Ocala Avenue/Hillmont Avenue</u>	<u>Ocala Avenue/Adrian Way</u>

Page 63 In Section 2.2.2, modify the second paragraph, as follows:

Bike lanes will be included as part of the improvements ~~and new traffic signals will be installed on White Road at Allenwood Drive and D'Amico Drive.~~ Other improvements will include a new landscaped median island within the project limits, except between Remington Way and Stutz Way. The median island will have the effect of restricting left turns to/from White Road to various signalized and non-signalized intersections; mid-block left turns will no longer be permitted. In addition, left turns from the following side streets onto White Road will be prohibited: Sylvan Drive, Glen Como Way, D'Amico Drive, Allenwood Drive, and Westgrove Lane.

Page 65 Add the following to the description of the proposed improvements at Yerba Buena Road/San Felipe Road:

The existing median opening at Yerba Buena Road/Buena Park Court will be closed in order to provide adequate left-turn storage for eastbound left-turns at Yerba Buena Road/San Felipe Road.

Page 67 Modify Section 2.2.6, as follows:

New traffic signals will be installed at the following intersections: 1) ~~Aborn Road at Murillo Avenue~~ Quimby Road at Scottsdale Drive; 2) Ruby Avenue at Norwood Avenue; 3) I-680 Ramps (N) at Jackson Avenue; 4) ~~King Road at Everglade Avenue~~ Nieman Boulevard at Daniel Maloney Drive; 5) ~~Quimby Road at Gavilan Drive~~ Story Road at Lancelot Lane; 6) Ruby Avenue at Tully Road; 7) ~~Quimby Road at Arcade Drive~~ Ocala Avenue at Hillmont Avenue; 8) Story Road at Clayton Road; 9) Marten Avenue at Flint Avenue/Mt. Rushmore Drive; 10) Ocala Avenue at Adrian Way ~~Yerba Buena Road at Evergreen Valley College~~; and 11) ~~Aborn Road at Voltaire Street~~. This list is preliminary and may be modified based on the actual traffic pattern.

Page 67 Add the following to the end of Section 2.2.7:

As an example, the following intersections will be monitored for potential signalization: 1) Yerba Buena Road at Evergreen Valley College; 2) King Road at Everglade Avenue; 3) Quimby Road at Murillo Avenue; 4) Quimby Road at Arcade Drive; and 5) White Road at D'Amico Drive.

Page 97 Delete the Introduction to Section 4:

Introductory Note Regarding Mitigation and Avoidance Measures: The project evaluated in this EIR includes both proposed amendments to the adopted San José General Plan and site-specific planned development rezonings. The analyses of impacts are, therefore, on both a program-level and a project-level. As such, the mitigation and avoidance measures identified in each impact category include both program-level and project-level measures. This process of identifying both types of mitigation is necessary because an amendment to the General Plan, particularly a change in land use designation on a piece of property, will continue to be in effect whether or not a given property owner chooses to implement it at any particular point in time.

Program-level mitigation and avoidance measures consist of the policies of the adopted General Plan, as well as other adopted City ordinances, laws, and policies. Project-level mitigation and avoidance measures fall into one of two categories: 1) specific measures that are included in the project as proposed; or 2) specific measures that could reasonably be expected to reduce adverse impacts, but are not included in the project as proposed. The latter category is important because it provides information to decision-makers regarding potential mitigation measures, such measures that could be required as conditions of project approval.

Page 107 Modify Section 4.1.2.3, Loss of Agricultural Land, as follows:

~~A 33-acre portion of the Berg/IDS property is designated as Prime Farmland on the Santa Clara County Important Farmlands 2004 map (California Department of Conservation, 2005). The area of the site with this designation is located in the southeast quadrant of the Yerba Buena Road/Fowler Road intersection (see Figure 19). This area will be converted to urbanized, non-agricultural uses under Scenarios I-VI. [Significant Impact]~~

~~A 17-acre portion of the Evergreen Valley College property is designated as Farmland of Local Importance on the above-referenced map. The area with this designation is located on the north side of Yerba Buena Road, immediately east of the Evergreen Commons Shopping Center (see Figure 19). This area will be converted to urbanized, non-agricultural uses under Scenarios II-VI. [Significant Impact]~~

According to the Santa Clara County Important Farmlands 2004 map (California Department of Conservation, 2005), none of the EEHVS opportunity sites contain areas designated as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland.³

A 17-acre portion of the Evergreen Valley College property is designated as Farmland of Local Importance on the above-referenced map. According to the San José/Evergreen Community College District, this area has not been used for agricultural purposes and is designated for urban uses.⁴ Therefore, per the criteria set forth under the California Farmland Mapping & Monitoring Program, the 17 acres does not qualify as Farmland of Local Importance.

Based on these facts, the EEHVS would not result in the loss of agricultural lands. [No Impact]

Page 111 Delete the following:

~~4.1.3.3 — Mitigation for Loss of Agricultural Land~~

~~The following discussion includes references to "agricultural easements". An agricultural conservation easement is a voluntary, legally recorded deed restriction that is placed on a specific property used for agricultural production. The goal of an agricultural conservation easement is to maintain agricultural land in active production by removing the development pressures from the land. Such an easement prohibits practices which would damage or interfere with the agricultural use of the land. Because the easement is a restriction on the deed of the property, the easement remains in effect even when the land changes ownership.~~

~~Creation of New Farmlands~~

~~The following measure, if determined to be feasible, would mitigate for the loss of agricultural land that would result from the proposed development of the Berg/IDS and Evergreen Valley College properties. The applicants have not included this measure as part of the proposed project. However, if the City Council determines the measure to be feasible and requires it as a condition of approval, it would reduce significant impacts to a less-than-significant level. In the event the mitigation is determined to be infeasible, adoption of a statement of overriding considerations will be required.~~

~~MM 4.1-3 —~~ ~~Mitigation for the conversion of farmland to urban uses would consist of replacing the lost acreage on a one-to-one (1:1) basis. For every acre of farmland lost, new farmland~~

³The 2004 Map shows a 33-acre portion of the Berg/IDS property as Prime Farmland. However, in a letter dated 2/10/06 to the City of San José, the California Department of Conservation noted that this designation was incorrect. The correct designation is Grazing Land.

⁴Source: Letter from the Chancellor of the San José/Evergreen Community College District to the City of San José Planning Department dated March 16, 2006.

would be created by converting suitable sites from non-agricultural to agricultural uses. This is analogous to the common practice of requiring the creation of new wetland habitat when existing wetland is impacted by a project.

Given the fact that most of San José is already developed with urban uses, there is only one location within San José's Sphere of Influence where it might be feasible to convert existing vacant, non-agricultural lands to agricultural uses. This area, known as the Coyote Greenbelt, consists of approximately 3,650 acres at the south end of San José's Coyote Valley. The Coyote Greenbelt is intended to be a permanent, non-urban buffer between the Cities of San José and Morgan Hill. Approximately 2,140 acres are designated by the City's General Plan for Agriculture, and approximately 818 acres are designated for Public Park/Open Space; remaining lands are designated Rural Residential, Public/Quasi-Public and Private Recreation.

This area is underlain by soils well-suited for agriculture, and most of the Coyote Greenbelt is designated as either Prime Farmland or Farmland of Statewide Importance on the *Santa Clara County Important Farmlands 2004* map (California Department of Conservation, 2005). A substantial number of acres in the Coyote Greenbelt have been developed, some with quasi-agricultural or agriculture support uses such as greenhouses. There are also a significant number of unrelated commercial and residential developments, including woodworking. Based on a review of aerial photographs of the area, a substantial quantity of the land designated as "Greenbelt" and planned for long-term agriculture is covered with structures, and much of it is no longer available for cultivation.

In addition to being constrained by existing development, much of the remaining vacant land has been subdivided into small parcels. Of the 255 parcels zoned Agriculture, the average parcel size is less than five acres. Some of the parcels are individually owned; other adjacent parcels may be in the same ownership. Properties of such a small size are rarely purchased for agricultural purposes. They are generally developed with residences or businesses, or are held for future development. It would also be unusual for new agriculture to be developed on such small parcels due to the likelihood of incompatible uses being already located nearby. Further, the likelihood for new incompatible uses to enter the area is too high to make the investment in agriculture seem viable. Even for higher-return agriculture that can viably locate on small parcels near urban areas (e.g., truck farming, specialty crops), the risk from existing or encroaching urbanization makes such sites unattractive.

This area has been used for agriculture in the past. In order to create economically viable, suitable agricultural sites on property in the Coyote Greenbelt that is presently unsuitable for agriculture, the following actions could be taken:

1. — Developed land could be purchased, the structures demolished, and an agricultural easement recorded over the property. Parcel lines that could allow individual sale of small lots would be eliminated. The agricultural sites can then be sold to others. Verification by an agricultural economist having experience with the urban/agricultural interface would be required to support the proposed site size.

2. ~~Agricultural sites of sufficient size to support viable agriculture, including buffers, could be purchased and existing parcel lines that create small parcels could be eliminated. This could require recordation of mergers, tentative maps, or other legal documents. An agricultural easement should be recorded over the new parcels. Verification by an agricultural economist having experience with the urban/agricultural interface would be required to support the proposed site size.~~

3. ~~For new agricultural sites that are adjacent to existing residences, or residential sites that are not part of the merged or vacated properties, acknowledgments from the adjacent residential property owners of the "right to farm" on adjacent lands should be recorded.~~

~~Because not all agricultural land is equally productive (for example, grazing land versus orchard lands), the replacement of agricultural land lost should be based on an equivalency ratio to ensure that the proposed mitigation replaces the value of the land lost. This ratio should be determined by an agricultural economist with knowledge of local agriculture and with experience with the urban/agricultural interface.~~

~~The creation of productive viable farmlands as mitigation that could reduce the impact of the loss of agricultural land to less-than-significant would not necessarily have to be limited to lands within San José's sphere of influence. Other land that has been rendered unsuitable for viable, sustainable agricultural use, and which is located in south Santa Clara County, and which could also be made viable agricultural land, could also serve as mitigation for impacts from this project. The City of San José has no specific knowledge of any other suitable location that could serve as mitigation, but it is acknowledged that such other locations, having characteristics similar to those of the Coyote Greenbelt, may exist.~~

Protection of Existing Farmlands

~~The protection of other existing farmland, such as through the use of agricultural easements or outright purchase, is not considered by the City of San José as adequate mitigation under CEQA because the net result of such actions would still be a net loss of farmland acreage. However, such actions do benefit agriculture by preventing the conversion of otherwise vulnerable farmland to non-agricultural uses. If a project that results in the loss of farmland contributes to the protection of other farmland that is in imminent danger of conversion to non-agricultural use, that fact can be taken into account when a Lead Agency adopts a statement of overriding considerations.~~

~~To qualify as mitigation, even mitigation that does not reduce the impact to less-than-significant, the project proponent could: (1) acquire land outright, record an agricultural easement that limits uses of the land to agricultural purposes, and then could either sell or lease the property for farming by others; or (2) negotiate with one or more property owners to allow recordation of an agricultural easement. The property that is the subject of this type of easement might or might not actually be in active cultivation at the time of easement recordation, but would need to meet the following requirements:~~

1. ~~Be suitable for agricultural uses, including soil types that would meet the criteria to qualify as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland in the Farmland Mapping and Monitoring Program maintained by the California Department of Conservation, and be of a size that could viably support agricultural uses. Verification by an agricultural economist having experience with the urban/agricultural interface would be required to support the proposed site size. If the property is in multiple parcels, the parcels should either be of sufficient size to meet the criteria of agricultural viability, or the parcels should be merged.~~

2. ~~The property must be at a location in Santa Clara County that would qualify it as threatened by the possibility of urban development. This could include farmland located: (1) immediately adjacent to an urban limit line, urban growth boundary, or urban service area; (2) in the path of, and reasonably proximate to, a clear pattern of recent urbanization; and/or (3) immediately adjacent to multiple (two or more) urban services (i.e., water line, sewer line, public streets).~~

3. ~~The easement must be offered to the City of San José and/or the Santa Clara County Open Space District, and must limit the uses of the land to agriculture in perpetuity.~~

~~As an alternative to providing individual mitigation, a project proponent may, at their discretion participate in an agricultural mitigation program established by the City of San José for the purpose of mitigating loss of agricultural land, should the City establish such a program in the future.~~

Page 115 Delete the following:

~~The EEHVS will result in the loss of 33 acres of Prime Farmland on the Berg/IDS property and 17 acres of Farmland of Local Importance on the Evergreen Valley College property. This EIR describes mitigation that, if determined to be feasible, could reduce this impact to a less-than-significant level, but the applicant has not included such mitigation in the project. **[Less-than-Significant Impact if Mitigation is Determined to be Feasible and Made a Condition of Approval]** **[Significant Unavoidable Impact if Mitigation is Determined to be Infeasible]**~~

Page 118 Modify the first full sentence, as follows:

Existing interchanges on U.S. 101 in the Evergreen area are located at I-280/I-680, Story Road, Tully Road, Capitol Expressway, Yerba Buena Road, ~~and~~ Hellyer Avenue, and Blossom Hill Road.

Page 119 Modify Table 18 by deleting the footnote indicating that Quimby Road, east of White Road, will be downsized from four lanes to two lanes.

Page 124 In Table 22, for Intersection #21 (Capitol Expressway at Story Road), correct the AM peak-hour average delay for Scenario I, as follows:

~~47.2~~ 53.9

Page 135 In Table 26, for Intersection #21 (Capitol Expressway at Story Road), correct the AM peak-hour average delay for Scenario I, as follows:

~~47.2~~ 53.9

Page 143 2nd paragraph, modify the second-to-the-last sentence, as follows:

Assuming the existing bus service to the Eastridge Transit Center would remain unchanged, and the planned Capitol LRT would provide service with ~~15-minute~~ 10-minute headways, the number of transit riders during the peak AM and PM commute periods would equate to only about three riders per bus/LRT train.

Page 148 Modify the footnote in Tables 31 and 32, as follows:

Please see Table ~~11~~ 13 for a list of the roadways that are proposed to be downgraded.

Page 179 Insert the following text at the bottom of the page:

Toxic Air Contaminants: BAAQMD maintains an inventory of all stationary sources that emit toxic air contaminants (TACs) in the Bay Area. According to BAAQMD's latest inventory, the only stationary sources that emit TACs in the greater Evergreen • East Hills area of San José are a number of dry cleaners.⁵ All such facilities emit perchloroethylene, which is the solvent used in the dry cleaning process. Dry cleaners are required to use equipment that limits emissions to levels that are deemed safe.

In addition to stationary sources, TACs are emitted in the project area from mobile sources, primarily motor vehicles. In this category, diesel exhaust is the chief source of TACs because it contains benzene and formaldehyde, both of which are listed as carcinogens. California has adopted a comprehensive

⁵BAAQMD TAC 2002 Annual Report, published June 2004.

diesel risk reduction program. The U.S. EPA has adopted low sulfur diesel fuel standards that will reduce diesel particulate matter substantially; these go into effect in June 2006. Because freeways carry significant amounts of traffic, including heavy diesel truck volumes, the CARB recommends against the siting of new sensitive land uses within 500 feet of a freeway.⁶

Page 184 Add the following Section:

Section 4.4.3.5 *Impacts from Toxic Air Contaminants*

As described in Section 4.4.2, there are no substantial stationary sources of TACs in the project area. In addition, the project does not propose any development in proximity to a freeway. Therefore, the project would not result in the exposure of the general public to substantial levels of TACs. [Less-than-Significant Impact]

Page 186 Modify MM 4.4-21, as follows:

All feasible and reasonable TDM measures such as ride-matching programs or guaranteed ride home programs shall be implemented. Other components of a TDM program could include employer-subsidized VTA Eco Passes, showers and lockers for employees that bicycle or walk to work, on-site child care, preferential parking for electric or alternatively-fueled vehicles, a car share program, unbundling of parking from rental housing rates, and a parking cash-out program for employees (i.e., non-driving employees receive transportation allowance equivalent to the value of subsidized parking). The specific mix of TDM measures shall be determined at the Planned Development Permit stage, to the satisfaction of the Director of Planning, Building, and Code Enforcement (PBCE).

Page 186 Insert the following text after MM 4.4-21:

The following measure applies to the retail/commercial component at the Arcadia and Evergreen Valley College properties under Scenarios II-VI, as well as the office component at the Evergreen Valley College property under Scenarios II-VI:

MM 4.4-22 All feasible and reasonable TDM measures shall be implemented. For these uses at these locations, TDM measures may include employer-subsidized VTA Eco Passes, preferential parking for electric or alternatively-fueled vehicles, and a ride-matching program. The specific mix of TDM measures shall be determined at the Planned Development Permit stage, to the satisfaction of the Director of PBCE.

⁶ Air Quality and Land Use Handbook, CARB, April 2005.

Page 187 Add the following to the policies listed in the Introduction to Section 4.5:

- Historic, Archaeological, and Cultural Resources Policy #1: Preservation Consideration in Development Review
- Historic, Archaeological, and Cultural Resources Policy #2: Landmark Designation Process
- Historic, Archaeological, and Cultural Resources Policy #3: Historic Inventory Maintenance
- Historic, Archaeological, and Cultural Resources Policy #4: Historic District Preservation
- Historic, Archaeological, and Cultural Resources Policy #5: Compatibility of New Development Adjacent to Historic Resources

Page 199 Include the RWQCB in Table 41, as follows:

T A B L E 41		
REGULATION OF BIOLOGICAL RESOURCES		
Law/Regulation	Objective(s)	Responsible Agencies
California Porter-Cologne Water Quality Act	Protect “waters of the State”, including wetlands.	Regional Water Quality Control Board

Page 200 Modify the paragraph under “Wetlands and Waterways,” as follows:

No streams or creeks are present on the site. There is, however, a man-made pit with a depth of approximately six feet that is located in the northeastern portion of the property. The pit, which measures roughly 100 feet by 50 feet (0.1 acre), is dry in the summer but does contain wetland-indicative vegetation such as dried stands of cattails, perennial pepperweed, and curly dock. This area is heavily degraded due to the presence of discarded rubbish. It does not meet the U.S. Army Corps of Engineers’ criteria for regulation under Section 404 of the Clean Water Act because it is isolated (i.e., has no hydrological connectivity to “waters of the United States”). It may, however, be subject to regulation by the RWQCB under the Porter-Cologne Act.

Page 205 Modify the paragraph under “Wetlands and Waterways,” as follows:

No streams or creeks are present on the site. There is an irrigation pond in the center of the golf course, which appears to stay inundated year-round. There are also several artificial wetlands and a seasonal wetland swale on the property. Due to their small size, location, and condition, the pond and wetlands do not provide important wildlife habitat. The pond and wetlands were determined not to be subject to regulation by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act because they

qualify for exemptions under the Clean Water Act⁷ and are isolated. They may, however, be subject to regulation by the RWQCB under the Porter-Cologne Act.

Page 206 Modify the paragraph under “Wetlands and Waterways,” as follows:

Fowler Creek crosses the northern portion of the Berg/IDS property. Although this waterway is defined and supports riparian habitat in the hills to the east, on the site it consists solely of a poorly-defined ditch that is completely dry with only minimal evidence of seasonal flows. Intermittent flows give way to ruderal grassland and there is no hydrologic connection to a downstream segment of Fowler Creek. There is no evidence of wetland or riparian vegetation in the ditch; vegetation consists of ruderal grassland. No hydric soils are present. Based upon these facts, it is unlikely that work within Fowler Creek would be subject to regulation by the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and/or the CDFG.

Page 208 Modify the first paragraph, as follows:

Four small seasonal wetlands were observed on the Legacy Partners property within the ruderal grassland habitat. The combined size of the four wetlands is approximately 0.01 acre. Three of the four wetlands were completely dry during June 2004 surveys. All four areas were observed to support some vegetation indicative of wetlands. Wetlands, in general, are valuable habitats, but values here are limited due to very small size, location within degraded grassland, and isolation from other similar habitat. These areas do not meet the U.S. Army Corps of Engineers’ criteria for regulation under Section 404 of the Clean Water Act because they are isolated. They may, however, be subject to regulation by the RWQCB under the Porter-Cologne Act.

Page 212 Modify the first sentence of the last paragraph, as follows:

Development on the site under Scenarios I-VI is proposed to be set back 50 feet from ~~each side~~ the centerline of Fowler Creek.

⁷The applicable exemptions under the Clean Water Act are as follows: 1) non-tidal drainage and irrigation ditches excavated on dryland, 2) artificially irrigated areas which would revert to upland if the irrigation ceased, and 3) artificial lakes or ponds created by excavating and/or diking dryland to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.

Page 216 Modify Table 48, as follows:

T A B L E 48				
TREE REPLACEMENT REQUIREMENTS				
Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	6:1 <u>5:1</u>	4:1	4:1 <u>3:1</u>	24-inch box
12 - 18 inches	2:1 <u>3:1</u>	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container
x:x = tree replacement to tree removal ratio				

Page 233 Modify MM 4.7-4, as follows:

A design-level soils-engineering investigation for the project shall be completed by the applicant and shall be reviewed and approved by the City Geologist prior to ~~Public Works clearance and~~ issuance of a ~~PD Permit~~ Geologic Hazards Clearance for any phase of the project. The geotechnical investigation shall identify and describe the specific engineering practices to be used to reduce or avoid potential geologic hazards on the site.

Page 248, Modify the description of the role of the Santa Clara County Department of Environmental Health, as follows:

Oversees & enforces state/local regulations pertaining to hazardous waste generators and risk management programs, including the California Accidental Release Program; oversees remediation of contamination at various sites.

Page 248 Modify the description of the role of the SCVWD, as follows:

Responsible for groundwater protection; ~~oversees remediation of contamination at various sites.~~

Page 249 Modify the 1st sentence of Footnote #76, as follows:

The regulation of hazardous materials involves all levels of government, including the U.S. Environmental Protection Agency (EPA), the California Department of Toxic Substances Control, the Regional Water Quality Control Board, the ~~Santa Clara Valley Water District~~ Santa Clara County Department of Environmental Health, and the San José Fire Department.

Page 259 Modify the wording of MM 4.9-5, as follows:

~~Any existing irrigation wells shall be closed in accordance with SCVWD procedures. Any abandoned wells (irrigation, domestic, monitoring, etc.) shall be properly destroyed in accordance with SCVWD procedures (Ordinance 90-1).~~

Page 259 Modify the wording of MM 4.9-7, as follows:

~~Any existing irrigation wells shall be closed in accordance with SCVWD procedures. Any abandoned wells (irrigation, domestic, monitoring, etc.) shall be properly destroyed in accordance with SCVWD procedures (Ordinance 90-1).~~

Page 260 Modify the wording of MM 4.9-15, as follows:

~~Any existing irrigation wells shall be closed in accordance with SCVWD procedures. Any abandoned wells (irrigation, domestic, monitoring, etc.) shall be properly destroyed in accordance with SCVWD procedures (Ordinance 90-1).~~

Page 261 Modify the wording of MM 4.9-21, as follows:

The two existing groundwater monitoring wells that are located on the area to be acquired shall be protected if possible. ~~If not possible, the wells shall be destroyed in accordance with State and County requirements. If protection is not possible, replacement of the well(s) may be required. Work shall be coordinated with the Santa Clara County Department of Environmental Health, which is overseeing the clean-up of the existing contamination.~~

Page 272 Modify the second-to-last sentence of the 4th paragraph, as follows:

This will be confirmed by the ~~City~~ Developer during the PD Permit stage.

Page 276 Modify the first sentence of the last paragraph, as follows:

Wastewater generated from proposed development on the Berg/IDS property will require the replacement of the existing 6-inch main in Delta Road with an 8-inch main, and will ~~likely~~ require the replacement of some flatter upstream 8-inch main with a ~~larger size~~ 10-inch main

Page 277 Modify the first sentence of the first paragraph, as follows:

Wastewater generated from proposed development on the Legacy Partners property will require the replacement of the existing 6-inch main in Delta Road with an 8-inch main and will require the replacement of some flatter upstream 8-inch main with a 10-inch main.

Page 280 Insert the following after the first paragraph:

Once the locations of the HMP basins have been identified and approved, a storm capacity analysis will be required for each site to address any potential impacts to the downstream storm pipes. The results of the storm capacity analysis and the City's discharge requirements will be incorporated into the final site design.

Page 292 Modify the wording of MM 4.12-6, as follows:

Although there is not a formal *EnergyStar* program for non-residential buildings, all buildings to be constructed by the project could be constructed to meet the same standards (i.e., 15% energy efficiency below Title 24 requirements) as those that apply to the residential program.

Page 305 Table 61 corrections:

T A B L E 6 1							
IMPACTS ON MOUNT PLEASANT ELEMENTARY SCHOOL DISTRICT							
		EEHVS Development Scenario					
		I	II	III	IV	V	VI
P.H. Golf Course Property	Single-Family Units	0	90 <u>450</u>	100 <u>500</u>	110 <u>550</u>	150 <u>675</u>	150 <u>675</u>
	Multi-Family Units	0	450 <u>90</u>	500 <u>100</u>	550 <u>110</u>	675 <u>150</u>	675 <u>150</u>
	Students	0	179 <u>248</u>	199 <u>275</u>	219 <u>303</u>	276 <u>376</u>	276 <u>376</u>

Page 307 Table 62 corrections:

T A B L E 62							
IMPACTS ON EAST SIDE UNION HIGH SCHOOL DISTRICT							
		EEHVS Development Scenario					
		I	II	III	IV	V	VI
Arcadia Property	Single-Family Units	217	0	0	0	0	0
	Multi-Family Units	0	1,500	1,850	2,025	1,875	1,875
	Students	43	300	370	405	375	375
P.H. Golf Course Property	Single-Family Units	0	90 <u>450</u>	100 <u>500</u>	110 <u>550</u>	150 <u>675</u>	150 <u>675</u>
	Multi-Family Units	0	450 <u>90</u>	500 <u>100</u>	550 <u>110</u>	675 <u>150</u>	675 <u>150</u>
	Students	0	108	120	132	165	165
Berg/IDS/ Legacy Properties	Single-Family Units	0	815	900	985	1,575	0
	Multi-Family Units	0	135	150	165	375	0
	Students	0	190	210	230	390	0
Evergreen College Property	Single-Family Units	0	0	0	0	0	0
	Multi-Family Units	0	275	300	330	500	500
	Students	0	55	60	66	100	100
All Sites	Total Students	43	653	760	833	1,030	640
Per the East Side Union High School District, the student generation rate is 0.2 students per dwelling unit.							

Page 315 Delete the following:

- ② ~~**Loss of Agricultural Land:** Scenarios I-VI would result in the loss of 33 acres of Prime Farmland on the Berg/IDS Property. Scenarios H-VI would result in the loss of 17 acres of Farmland of Local Importance on the Evergreen Valley College property.~~

Page 329 Modify Section 7.3.1.2, *Cumulative Loss of Agricultural Lands*, as follows:

As described in Section 4.1.2.3, the proposed EEHVS will not result in the loss of agricultural lands. Therefore, in accordance with CEQA Guidelines §15130(a)(1), there would be no cumulative impacts to agricultural land, as it relates to the EEHVS. [No Cumulative Impact]

~~Three of the cumulative projects would result in the loss of agricultural lands, including lands mapped as Prime Farmland by the California Department of Conservation:~~

- ~~• The iStar project would result in the loss of approximately 80 acres of Prime Farmland.~~
- ~~• The CVSP project would result in the loss of approximately 2,000 acres of Prime Farmland.~~
- ~~• The EEHVS project would result in the loss of approximately 33 acres of Prime Farmland and approximately 17 acres of Farmland of Local Importance.~~

~~Lands with soils that support prime agricultural uses are a finite resource. Due to development pressures, little agricultural land is left in San José or the greater Bay Area, and agricultural land is rapidly being developed statewide. Therefore, the loss of agricultural lands from the cumulative projects would be significant, and the contribution of the EEHVS to this impact would be considerable. [Significant Cumulative Impact]~~

~~The above conclusion notwithstanding, all of the agricultural land that is currently within the City's Urban Service Area, including the lands in Evergreen, North Coyote Valley, and the property owned by iStar, are designated for urban uses. Their conversion from agricultural use was addressed in one or more previously-prepared EIRs, including the EIR certified for the City's General Plan in 1995, and EIRs prepared for the Edenvale Redevelopment Project and for campus industrial developments in North Coyote Valley and Evergreen. In designating these lands for urban uses, the City disclosed the impact from loss of agricultural lands and adopted findings and statements of overriding considerations, as required by CEQA. The projects that are represented by this cumulative analysis within North Coyote Valley, Evergreen, and on the iStar site, would not result in the loss of additional agricultural land beyond that disclosed in previous CEQA documents, as referenced above. These projects are the re-designation of urban-designated lands for different urban uses. Only the proposed use of lands within the mid-Coyote Valley area that would be included in the CVSP would result in loss of agricultural land not previously approved for urban development and acknowledged in an adopted EIR.~~

Page 330 Delete the following:

~~Cumulative development will result in a significant loss of agricultural lands in San José. [Less-than-Significant Cumulative Impact if Mitigation is Determined to be Feasible and Made a Condition of Approval] [Significant Unavoidable Cumulative Impact if Mitigation is Determined to be Infeasible]~~

Page 362 Modify the 1st full sentence on the page, as follows:

~~The SCVWD is in the process of modeling their long term ability to provide groundwater to the three retailers, but their preliminary analysis suggests that they have adequate capacity to address the cumulative demand of the projects under consideration here. In December 2005, the SCVWD adopted its 2005 Urban Water Management Plan (UWMP), which accounts for the proposed EEHVS in its projections of water demand. The UWMP states that the ability of the SCVWD to meet long-term Countywide demand is predicated on a number of assumptions, including various water supply capital investments for which funding has not been secured.~~

Page 378 Delete the following:

~~② — **Loss of Agricultural Land:** Scenarios I-VI would result in the loss of 33 acres of Prime Farmland on the Berg/IDS Property. Scenarios II-VI would result in the loss of 17 acres of Farmland of Local Importance on the Evergreen Valley College property.~~

Appendix K In Table 1 of the “Lower Thompson and Silver Creeks Memo” (Appendix B-1), the two column headings should be switched around.

Appendix

A

Copies of Comments

Received on the

Draft EIR